

Exhibit N

Lorena Ard

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

IN RE: DIGITEK PRODUCT LIABILITY LITIGATION

MDL NO. 1968

CARLA YORK, ET AL.,)

PLAINTIFFS,)

V.) MDL NO.

2:09-CV-00544

ACTAVIS TOTOWA, LLC, ET AL.,)

DEFENDANTS.)

DEPOSITION OF LORENA ARD, PRODUCED, SWORN
AND EXAMINED ON THE 11TH DAY OF DECEMBER, 2009,
BETWEEN THE HOURS OF 12:30 P.M. AND 3:21 P.M., AT
THE OFFICES OF DINSMORE & SHOHL, 500 WEST JEFFERSON
STREET, SUITE 1400, LOUISVILLE, JEFFERSON COUNTY,
KENTUCKY, BEFORE LISA MIGLIORE BLACK, CERTIFIED
COURT REPORTER--KENTUCKY AND NOTARY PUBLIC WITHIN
AND FOR THE STATE OF KENTUCKY.

Page 2

*** **

APPEARANCES

FOR THE PLAINTIFFS:

LAWRENCE L. JONES, II, ESQ.

LAWRENCE JONES, II, ESQ.

BAHE, COOK, CANTLEY & JONES

KENTUCKY HOME LIFE BUILDING

239 SOUTH FIFTH STREET

SUITE 700

LOUISVILLE, KENTUCKY 40202

FOR THE DEFENDANTS:

HOLLY SMITH, ESQ.

SHOOK, HARDY & BACON

2555 GRAND BOULEVARD

KANSAS CITY, MISSOURI 64108

APPEARING VIA SPEAKERPHONE ON BEHALF OF MYLAN

PHARMACEUTICALS INC., MYLAN BERTEK PHARMACEUTICALS

INC., AND UDL LABORATORIES

LESLIE E. CRISWELL, ESQ.

TUCKER, ELLIS & WEST

515 SOUTH FLOWER STREET

FORTY-SECOND FLOOR

LOS ANGELES, CALIFORNIA 90071

APPEARING ON BEHALF OF ACTAVIS TOTOWA LLC, ACTAVIS

INC., AND ACTAVIS ELIZABETH LLC

Page 3

INDEX TO EXAMINATION

PAGE

EXAMINATION BY MS. CRISWELL	4
EXAMINATION BY MS. SMITH	119
EXAMINATION BY MS. CRISWELL	123
EXAMINATION BY MS. SMITH	136
EXAMINATION BY MR. JONES	138
EXAMINATION BY MS. CRISWELL	141
EXAMINATION BY MR. JONES	143
EXAMINATION BY MS. CRISWELL	143
CERTIFICATE	146

INDEX TO EXHIBITS

EXHIBIT 1, COMPLAINT	4
EXHIBIT 2, PLAINTIFF FACT SHEET	4

Page 4

(DEPOSITION EXHIBITS 1 AND 2 WERE MARKED
FOR IDENTIFICATION.)

LORENA ARD, AFTER BEING FIRST DULY SWORN,
WAS EXAMINED AND DEPOSED AS FOLLOWS:

EXAMINATION

BY MS. CRISWELL:

Q. Ms. Ard, my name is Leslie Criswell. I
represent the Actavis defendants in this case, and
Holly Smith is on the phone. She's counsel for the
Mylan defendants. I'm going to start the
questioning. If she has anything she wants to add
that I forgot to ask you, or if she needs further
clarification, she'll do that.

You understand you're here giving a deposition
in connection with the lawsuit that you're a
plaintiff in?

A. That's correct.

Q. Okay. And have you ever given a
deposition before?

A. Not that I remember.

Q. Okay. I'm sure you've had a chance to
talk with your lawyer about what we're here to do

1 (Pages 1 to 4)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 5

1 today. I'm going to ask the questions. You're
 2 going to answer the questions to the best of your
 3 ability.
 4 You're testifying under penalty of perjury as
 5 if you were in a courtroom. You understand that?
 6 A. Yes.
 7 Q. For that reason, if I ask you something
 8 you don't understand, it's okay for you to say, "I
 9 don't understand what you want." And then I'll
 10 rephrase it, repeat myself, whatever I need to do.
 11 The same with Holly. If there's anything that you
 12 don't understand, we want you to tell us.
 13 When we're all done today, the transcript will
 14 be put on paper. At some point, probably not too
 15 far down the road, your lawyer is going to get it,
 16 and he's going to contact you and say, "Okay. Now
 17 you need to read this. You need to make any changes
 18 you need to make in your testimony." You sign it
 19 under penalty of perjury and date it, and then
 20 you're done with the deposition process.
 21 But if you make any changes at all after you
 22 walk out of here today, I or any other attorney in
 23 the case can comment on that to a judge, to a jury,
 24 to a mediator, whoever. If you make a big enough
 25 change in your testimony or something the defendants

Page 6

1 think is important, the suggestion could be Ms. Ard
 2 either has no idea what she's talking about, so
 3 she's guessing about stuff and she's giving
 4 different answers here and there, or she's not
 5 telling the truth. And you don't want to create
 6 that impression, and we would like to get the
 7 clearest testimony we can today about the class
 8 action that's been filed.
 9 We can take breaks. If you need to take a
 10 break, just tell me that you need to take a break.
 11 My hope is that we finish this thing by 5:00.
 12 That's what I'm hoping. Maybe we get done quicker.
 13 As we're going through this, while I'm talking,
 14 if you would not talk, wait until I'm done and then
 15 go ahead and give me your answer, and I'll really
 16 try to do the same and not step on your answers with
 17 the next question. It makes for a clearer record
 18 with the court reporter. We don't all have to be
 19 wondering later, "Was that really the question or
 20 not the question? So does the answer make sense or
 21 not?"
 22 Uh-huhs and uh-uhs will not work. If you do
 23 that, then someone in this room is going to say, "Is
 24 that a yes or a no?" Nods and shakes of the head
 25 don't work either for the same reason. It's a

Page 7

1 written record. So we have to have words.
 2 Do you have any questions before we get
 3 started?
 4 A. I don't think so.
 5 Q. Okay. You're feeling okay to go ahead
 6 with this?
 7 A. Yes.
 8 Q. Is that yes?
 9 A. Yes.
 10 Q. I got you.
 11 A. You did get me, didn't you?
 12 Q. You are a nurse.
 13 A. That's correct.
 14 Q. Yeah, and you've been a nurse for a
 15 number of years.
 16 A. Yes.
 17 Q. For how long?
 18 A. More than 40.
 19 Q. And what type of specialization do you
 20 have in that field?
 21 A. Since 1997, I've been a psychiatric
 22 nurse practitioner.
 23 Q. Okay. Prior to that, what was your area
 24 of focus?
 25 A. I started out in obstetrics, and then I

Page 8

1 was a house supervisor for many years.
 2 Q. What is an a house supervisor?
 3 A. That's -- basically you are the nurse
 4 reference in charge. In my case, it was on the
 5 evening shift. If there's any problems, anything
 6 that needs to be dealt with, they would call me.
 7 Q. At a hospital?
 8 A. At a hospital, correct.
 9 Q. Was that job all at one hospital?
 10 A. Yes.
 11 Q. And which hospital was that?
 12 A. That was Welborn Baptist Hospital in
 13 Evansville, Indiana.
 14 Q. And are you an Indiana resident at the
 15 current time?
 16 A. Correct.
 17 Q. Okay. For how long have you been an
 18 Indiana resident?
 19 A. Most of my life, from age 10.
 20 Q. Okay. All right. And you are how old
 21 now?
 22 A. 65.
 23 Q. Okay. So for 55 years, you've been a
 24 resident --
 25 A. Yes.

2 (Pages 5 to 8)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 9

1 Q. -- of Indiana?
 2 A. Thank you for the subtraction, yeah.
 3 Q. Okay. Have you ever been a resident of
 4 Kentucky?
 5 A. Yes, I've lived in Kentucky. My family
 6 is all from Kentucky.
 7 Q. Okay. And when were you a resident of
 8 the State of Kentucky?
 9 A. When I was eight years old.
 10 Q. And that's it?
 11 A. Uh-huh.
 12 Q. Is that yes?
 13 A. Yes.
 14 Q. Okay. All right. I want to understand
 15 at the outset here what claims you are making in
 16 this case.
 17 What are your claims in this lawsuit?
 18 A. I received dosages of Digitek that were
 19 inappropriate, and they gave me cardiac symptoms for
 20 an extended period of time.
 21 Q. Okay. Now, are you talking specifically
 22 about Digitek or some other form of the same kind of
 23 medication?
 24 A. I'm talking about specifically Digitek.
 25 Q. Okay. And what was it about the dosage

Page 10

1 that was not appropriate, to use your words?
 2 A. I got all of the same symptoms that one
 3 gets when one is toxic on Digitek. I was supposed
 4 to be getting 0.25.
 5 Q. And you were getting what?
 6 A. Obviously I was getting more.
 7 Q. Why do you say that?
 8 A. Because I had symptoms.
 9 Q. So your conclusion is because you had
 10 symptoms, you must have been getting more than 0.25
 11 milligrams in the tablet?
 12 A. Correct.
 13 Q. Over what period of time was this
 14 happening?
 15 A. I received Digitek from February of 2006
 16 until about May 2008. I didn't start having
 17 symptoms until October or November of '07, and those
 18 continued to May of '08.
 19 Q. Okay. So what symptoms did you begin to
 20 experience in October or November of '07?
 21 A. Fatigue, shortness of breath without
 22 exertion, sleepiness to the point that I had a
 23 houseful of company at Thanksgiving, and I went to
 24 bed because I had to sleep.
 25 Q. It's that turkey.

Page 11

1 A. No, I hadn't even had any,
 2 unfortunately. My husband was cooking it.
 3 I also had a regular heart rhythm [sic].
 4 Q. Irregular?
 5 A. Irregular heart rhythm, and that was
 6 intermittent.
 7 Q. Any other symptoms?
 8 A. I was very limited as far as activity
 9 would be concerned. I would get short of breath,
 10 although I did get short of breath without activity
 11 also.
 12 Q. Okay. Any other symptoms that you
 13 noticed in the October/November time frame that you
 14 attribute to Digitek?
 15 A. The sleepiness, the fatigue, shortness
 16 of breath. I'm just trying to think. Those were
 17 the primary ones.
 18 Q. Are there any others that you can think
 19 of?
 20 A. Not that I can think of at this moment.
 21 Q. So what changed, if anything, in
 22 October/November of '07 that coincided with the
 23 symptoms now becoming -- I guess not becoming, but
 24 beginning?
 25 A. I'm not really sure except that I did

Page 12

1 get a new prescription of Digitek in October --
 2 Q. Okay.
 3 A. -- a refill.
 4 Q. A refill from who?
 5 A. Caremark.
 6 Q. Caremark.
 7 Okay. And is that -- for how long has Caremark
 8 been your pharmacy?
 9 A. Oh, 10, 15 years.
 10 Q. Okay. So had Caremark been the place
 11 that you had been getting prescriptions of Digitek
 12 filled from February of '06 to October of '07?
 13 A. Correct.
 14 Q. Okay. Was it always 0.25 milligrams?
 15 A. Yes.
 16 Q. And was the dosage to be taken once a
 17 day?
 18 A. Yes.
 19 Q. And the doctor that prescribed that
 20 medication for you, was the same person from
 21 February of '06 to May of '08?
 22 A. Correct.
 23 Q. And who was that?
 24 A. Dr. Roshan Mathew.
 25 Q. Okay. He's a cardiologist?

3 (Pages 9 to 12)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 13

1 A. Correct.
 2 Q. Okay. Okay. So you got a refill in
 3 October of '07 of 0.25 milligrams Digitek.
 4 How many pills were in the bottle?
 5 A. 30 -- well, no, there were 90 because it
 6 was a three-month.
 7 Q. Okay. And was that your typical refill,
 8 was a 90-day --
 9 A. Yes, mail-in.
 10 Q. -- batch?
 11 A. Yeah.
 12 Q. Now, did this come in the mail?
 13 A. Yes.
 14 Q. Okay. So Caremark isn't -- you don't
 15 walk up to the counter and get the medication?
 16 A. You do now. They are affiliated with
 17 CVS, but at that time, no.
 18 Q. The Digitek that you received during
 19 that '06 to '08 time frame, was it all delivered to
 20 you by mail?
 21 A. Yes.
 22 Q. Okay. And was it always a 90-day
 23 supply?
 24 A. Yes.
 25 Q. And did the 90 pills all come in

Page 14

1 one bottle?
 2 A. Yes.
 3 Q. All right. Do you have any of those
 4 bottles?
 5 A. I don't. My lawyer does.
 6 Q. How many of the bottles does your lawyer
 7 have?
 8 A. A partial -- I'm not sure how many were
 9 in there.
 10 Q. Am I understanding he has one bottle
 11 with some pills in it?
 12 A. Correct.
 13 Q. And which bottle -- which prescription
 14 date is on that bottle?
 15 A. It should have been -- let's see --
 16 March.
 17 Q. Of what year?
 18 A. 2008. That's an approximate, but
 19 March 2008.
 20 Q. Okay. So if I understand, the
 21 prescription you got refilled in October of '07 with
 22 the 90 pills in it, that bottle wasn't kept; is that
 23 correct?
 24 A. No, right, it was not. It was -- the
 25 medication was used and discarded.

Page 15

1 Q. And your practice when you would finish
 2 with the medication is dispose of the package?
 3 A. Yes.
 4 (A DISCUSSION WAS HELD OFF THE RECORD.)
 5 BY MS. CRISWELL:
 6 Q. When you would get a Caremark 90-day
 7 supply, did it come with -- did the tablets come
 8 with some kind of a package insert, instructions?
 9 A. Yes, they did.
 10 Q. Okay.
 11 A. All of them did.
 12 Q. Every time you would get something?
 13 A. Yes.
 14 Q. And that -- any of the medications that
 15 you take, that's typical; you would get some type of
 16 a package insert?
 17 A. Correct.
 18 Q. Okay. The Digitek that you received,
 19 the 90-day supplies, did they come in plastic
 20 bottles?
 21 A. Yes.
 22 Q. Okay. With a childproof cap?
 23 A. Correct.
 24 Q. Do you remember what color the bottles
 25 were?

Page 16

1 A. Clear.
 2 Q. Clear.
 3 Okay. And then the cap?
 4 A. White.
 5 Q. Okay. Did the bottle come inside of a
 6 box?
 7 A. It came inside of a bubble-wrapped
 8 package --
 9 Q. Okay.
 10 A. -- sealed.
 11 Q. So it was a mailer kind of thing?
 12 A. Yes, yes.
 13 Q. Okay. And the insert that would come
 14 with it would be inside the bubble-wrapped package,
 15 but loose from the plastic container?
 16 A. Yes, it would depend on how many I was
 17 getting at a time. Most of the time, they would be
 18 together -- stapled together, but, yes.
 19 Q. And what you mean by that is if you got
 20 different kinds of medication all in one package,
 21 one shipment, all of the informative literature may
 22 have been stapled together?
 23 A. Correct.
 24 Q. Okay. Okay. When you opened up the
 25 bottle that you got in October of '07 with the 90

4 (Pages 13 to 16)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 17

1 tablets inside to take the first one that you took,
2 did you notice anything different?
3 A. No.
4 Q. That entire 90-tablet batch, did you
5 notice anything about those pills that was -- one
6 pill looked different from the other or any of those
7 pills looked to you that it was different from
8 earlier prescriptions that you had filled for
9 Digitek from Caremark?
10 A. No.
11 Q. Okay. What color were the tablets?
12 A. White.
13 Q. And did they have any writing on them?
14 A. I don't remember that.
15 Q. Was there a score mark on the tablets so
16 you could break it in half?
17 A. I don't remember. I took a whole
18 tablet. So I didn't pay attention to that.
19 Q. You didn't have to break it in half?
20 A. That's correct.
21 Q. What time typically in the day would you
22 take the Digitek that you were taking?
23 A. In the morning.
24 Q. Okay. Did you take it with a meal?
25 A. No.

Page 18

1 Q. Did you take it before a meal?
2 A. Yes.
3 Q. Okay. How long before a meal would you
4 typically take the Digitek?
5 A. Average, probably two hours.
6 Q. Okay. Was there a particular thought
7 process that you had that you ought to leave a
8 two-hour window in between?
9 A. I just --
10 Q. Just habit?
11 A. Habit.
12 Q. Are you, two hours before breakfast,
13 taking other medications, vitamins, things like
14 that?
15 A. Yes.
16 Q. Okay. So back in the -- let's say
17 2006/2007 time frame, what else would you typically
18 have been taking approximately two hours before
19 breakfast every morning other than your one tablet
20 of Digitek?
21 A. Thyroid medication.
22 Q. Okay. Do you remember what kind, the
23 name of it?
24 A. Levothyroid (phonetic).
25 Q. Okay.

Page 19

1 A. Multiple vitamin, Toprol, furosemide.
2 Q. Can you spell that one?
3 A. Lasix, L-A-S-I-X, it's easier.
4 Q. Okay.
5 A. You put me on the spot trying to
6 remember. Allegra.
7 Q. Okay.
8 A. Potassium.
9 Q. Okay.
10 A. I believe that's most of it. I can't
11 remember anything else.
12 Q. Okay. Did you keep at home or are you
13 in the habit of keeping at home or somewhere any
14 kind of a record of your doctor appointments and
15 what medications you're taking?
16 A. Yes.
17 Q. And what do you call that?
18 A. The doctors' appointments will usually
19 go on my computer, or I'll stick a card on the
20 refrigerator like most people do. Medications -- I
21 keep a list of what medications that I'm taking.
22 Q. What is it that you keep?
23 A. Little three-by-five cards.
24 Q. So as the medications change, the dosage
25 or the mix of the medications change, you would make

Page 20

1 a new three-by-five card out?
2 A. Well, I would mark them out and add to
3 it because I had room on it.
4 Q. Okay. And the three-by-five cards,
5 after you were finished, you couldn't put any more
6 information on it, then what would you do with them?
7 A. Then I would make out a new one.
8 Q. Okay. In between October -- let's say
9 between January of '06 and now, have you had to make
10 new three-by-five cards?
11 A. I've only had to make one because my
12 medications didn't change a whole lot.
13 Q. Okay. And when do you remember having
14 to make a new three-by-five card?
15 A. I don't remember when it was.
16 Q. Okay. Do you keep the prescription that
17 the doctor would give you to go to the pharmacy to
18 order or to get medications? Do you keep those?
19 A. The prescription, no. I have to give
20 them to the pharmacy or send them in.
21 Q. So with Caremark, you send in the
22 prescription, and they would send you back the
23 medications?
24 A. Correct.
25 Q. Did you ever keep copies of those?

5 (Pages 17 to 20)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 21

1 A. No.
 2 Q. So you take your medications, your
 3 vitamins, potassium, Digitek, and then a couple of
 4 hours later, you would have breakfast?
 5 A. Yes.
 6 Q. Did anybody ever recommend that you take
 7 Digitek or any of the other medications at the same
 8 time you were eating a meal?
 9 A. No.
 10 Q. Did anybody ever recommend that you take
 11 them separate from a meal?
 12 A. No.
 13 Q. That was just your personal habit to do
 14 it that way?
 15 A. Correct.
 16 Q. All right. So from February of '06,
 17 when you started taking Digitek, until October of
 18 '07, were you having any cardiac symptoms?
 19 A. No.
 20 Q. At all?
 21 A. No.
 22 Q. No. Were you having any of the fatigue
 23 that you just described?
 24 A. Only normal fatigue.
 25 Q. Just being tired at the end of a day?

Page 22

1 A. Yes.
 2 Q. So the difference in the fatigue after
 3 October of '07 was what?
 4 A. It was very noticeable.
 5 Q. So give me an example. What would be --
 6 what would have been something that would have been
 7 very affected by the additional fatigue?
 8 A. I would go to work, I would come home,
 9 and go to bed.
 10 Q. A typical time to come home was what?
 11 A. 6:00.
 12 Q. 6:00 p.m.?
 13 A. Yes.
 14 Q. And were you able -- then you slept all
 15 night long?
 16 A. Yes.
 17 Q. Until breakfast time basically?
 18 A. Once I got to sleep, yes. Number one, I
 19 needed to rest, and then after that, I would go to
 20 sleep. That would vary depending on how tired I
 21 was.
 22 Q. But your testimony is, after October of
 23 '07, for a period of time you were much more
 24 fatigued than you had ever been before?
 25 A. Correct.

Page 23

1 Q. The shortness of breath, had you ever
 2 experienced that before?
 3 A. No.
 4 Q. And the shortness of breath that you
 5 described for me was shortness of breath even when
 6 you were sitting down?
 7 A. Correct.
 8 Q. Not doing anything?
 9 A. Correct.
 10 Q. And the sleepiness, is that basically
 11 the same thing as the fatigue?
 12 A. No, that was very different also.
 13 Q. Tell me about that.
 14 A. As I stated, a whole houseful people,
 15 and I would get very sleepy and have to go lie down,
 16 and I would fall asleep. And that's very much out
 17 of character for me. I just don't do that.
 18 Q. Okay.
 19 A. And they would come looking for me, and
 20 I was in bed asleep.
 21 Q. Okay. And intermittent irregular heart
 22 rhythm you also identified as a symptom that you
 23 had.
 24 A. Yes.
 25 Q. This irregular intermittent heart rhythm

Page 24

1 that you experienced in October of '07 was different
 2 from any of heart sensations you had before?
 3 A. Yes.
 4 Q. And how so?
 5 A. It's not unusual for all of us to have
 6 premature ventricular contractions, and you'll
 7 notice that, but this was very noticeable in the
 8 fact that there were a lot more of them and that my
 9 heart would be pounding along with them.
 10 Q. Okay. When you say, "It's really for
 11 all of us to have certain" -- what do you mean by
 12 "all of us"?
 13 A. All of us people in the world -- I mean,
 14 it's not unusual, and it's usually not anything to
 15 be concerned about unless it gets to be a lot and it
 16 gets to be very noticeable.
 17 Q. Okay. So after you opened that bottle
 18 in October of '07 and you took the first one of that
 19 new prescription of Digitek out and you swallowed
 20 it, how soon was it that you began to experience
 21 these symptoms that we've just been talking about?
 22 A. That's difficult for me to say. It
 23 seemed as though, as I look back on it, it was very
 24 gradual, maybe a few weeks. But by November for
 25 sure I was having symptoms, mild at first and then

6 (Pages 21 to 24)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 25

1 they got worse.
 2 Q. Okay. So you gradually noticed -- was
 3 it -- describe for me what it was that you began to
 4 notice.
 5 A. The fatigue and the irregular heart,
 6 those were the two main things I noticed.
 7 Q. And then by November, you were feeling
 8 these symptoms that we just described in more a
 9 extreme sense?
 10 A. Uh-huh, but they were intermittent. I
 11 might have two or three a week, and then a few days
 12 would go by, and I wouldn't have them.
 13 Q. Okay. So what you're telling me is,
 14 some days, even after we're into now November of
 15 '07, so now you've been taking the new prescription
 16 for a month, even then what you're getting is some
 17 days you're fatigued and tired and you're having the
 18 irregular heart rhythm, shortness of breath, and
 19 some days no symptoms?
 20 A. Some days fewer symptoms.
 21 Q. Okay.
 22 A. The fatigue was pretty well ongoing.
 23 Q. How about the shortness of breath, the
 24 sleepiness, and the heart rhythm?
 25 A. Shortness of breath was episodic as well

Page 26

1 as the heart rhythm irregularity. The sleepiness
 2 went along with the fatigue.
 3 Q. Would you say you experienced the
 4 significant fatigue and sleepiness every single day?
 5 A. Yes.
 6 Q. And the other two symptoms, how often
 7 typically in the week? This is by November we're
 8 talking about.
 9 A. I would say one to two times a week.
 10 Q. December of '07, how were you feeling
 11 with respect --
 12 A. About the same.
 13 Q. Okay. So November/December, the
 14 symptoms really don't change, right?
 15 A. Correct.
 16 Q. January through May of '08, what is
 17 happening with those symptoms?
 18 A. Into February, the symptoms got a lot
 19 worse, much more in the way of heart irregularity,
 20 much more shortness of breath. I couldn't go
 21 upstairs without being short of breath.
 22 Q. Okay. That's February?
 23 A. Correct.
 24 Q. Is anything going on in February with
 25 respect to any change at all in the other

Page 27

1 medications that you were taking --
 2 A. No.
 3 Q. -- or when you were taking your
 4 medications --
 5 A. No.
 6 Q. -- or the fact that you were taking --
 7 maybe you're taking some medications at different
 8 times of the day than you were used to taking them?
 9 A. No.
 10 Q. Are you still in February taking the
 11 Digitek, the vitamins, the potassium, the Toprol,
 12 the thyroid medicine, the Lasix, and the Allegra all
 13 at the same time in the morning?
 14 A. And the potassium, yes.
 15 Q. Are all of those medications a
 16 one-time-a-day thing?
 17 A. Yes.
 18 Q. Okay. Were there any other medications
 19 during this period that you were taking in the
 20 middle of the day or at the end of the day?
 21 A. At the end of the day, I took another
 22 Toprol. I'm sorry. That was a twice-a-day
 23 medication.
 24 Q. Okay. Anything else that you would
 25 typically take in the evening -- nighttime?

Page 28

1 A. Oh, stool softeners, fiber. I would
 2 take my Zolof. I would take an aspirin in the
 3 evening. That was my -- my doctor had ordered that.
 4 Q. Okay.
 5 A. I would take a calcium with D. I'm
 6 trying to remember what else I would take -- a fish
 7 oil, and that's all I can remember right now.
 8 Q. Okay. And were those evening
 9 medications taken with dinner typically?
 10 A. After dinner.
 11 Q. After dinner.
 12 How long after dinner?
 13 A. Maybe an hour.
 14 Q. Okay. And then basically that same
 15 group of p.m. medicines and supplements, was that
 16 going back into the early part of '06, the same
 17 routine?
 18 A. Yes, yes.
 19 Q. Are you still taking all of these
 20 medications and vitamin supplements now, other than
 21 the Digitek?
 22 A. Yes.
 23 Q. Okay. All right. Have you added
 24 anything to the list?
 25 A. Spironolactone was added in February of

7 (Pages 25 to 28)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 29

1 '08 -- of '07 -- I'm sorry, '08. I'm sorry.
 2 Q. Anything else that you can recall?
 3 A. Not that I can recall.
 4 Q. Okay. Between February of '08 and May
 5 of '08, did the symptoms get worse, get better, stay
 6 about the same -- the ones we've talked about?
 7 A. They stayed about the same. I would
 8 still have the episodes. At that point, the
 9 irregular heart was very noticeable, and I would get
 10 light-headed to the point I would have to sit down.
 11 Q. And when did that start?
 12 A. That started in like the beginning of
 13 February --
 14 Q. Okay.
 15 A. -- beginning to mid-February. That's
 16 when I called my cardiologist.
 17 Q. Okay. And the cardiologist is who?
 18 A. Dr. Mathew.
 19 Q. That's right. All right. So Dr. Mathew
 20 is your cardiologist throughout all of this?
 21 A. Right.
 22 Q. So when you first began to notice the
 23 significant fatigue and the shortness of breath
 24 starts, the sleepiness, and the intermittent heart
 25 rhythm in '07, did you talk to him?

Page 30

1 A. I can't recall. I do know that I talked
 2 with my primary care doctor.
 3 Q. Okay. Who is that?
 4 A. That's Dr. David Johnson.
 5 Q. Okay. So David Johnson you talked to
 6 when, after you first started that new Digitek
 7 prescription?
 8 A. Oh, gosh, I'm thinking January.
 9 Q. Okay. Is this for just a routine
 10 follow-up?
 11 A. It was a follow-up, but the focus was on
 12 the fatigue.
 13 Q. So let me understand. From October of
 14 '07 to January of '08, the entire time you were
 15 experiencing significant fatigue, which is gradually
 16 worsening?
 17 A. Correct.
 18 Q. And, in fact, in November of '07, that
 19 is a -- that's a daily problem now, right?
 20 A. The fatigue.
 21 Q. And the sleeplessness -- or sleepiness,
 22 right?
 23 A. Sleepiness, yes.
 24 Q. Did you talk to any medical practitioner
 25 at all, whether it's a treating doctor or just a

Page 31

1 friend, about the fatigue, the shortness of breath,
 2 the sleepiness, or the irregular heart rhythm
 3 between October of '07 and January of '08?
 4 A. I believe that I spoke with Dr. Johnson.
 5 I cannot remember that date, though. That would
 6 have been my routine to have called my primary care
 7 doctor.
 8 Q. Your routine would be to call him, but
 9 do you remember calling him to talk to him about it?
 10 A. I do not remember the date.
 11 Q. But you did call him?
 12 A. I believe I did, to the best of my
 13 knowledge.
 14 Q. Is there any record of that that you're
 15 aware of?
 16 A. I didn't see one.
 17 Q. Did you look for something that might
 18 record that?
 19 A. No.
 20 Q. Okay. So let me understand. You
 21 believe you did call him?
 22 A. Uh-huh.
 23 Q. Yes?
 24 A. Yes.
 25 Q. But you don't know exactly when it was?

Page 32

1 A. I don't recall when.
 2 Q. And the January of '08 date that you
 3 gave me a few minutes ago, was that an actual exam
 4 in his office?
 5 A. Yes.
 6 Q. Do you believe you called him before
 7 that?
 8 A. I believe that I did, yes.
 9 Q. What did you say, and what did he say?
 10 A. I spoke with his nurse, spoke to them
 11 about the fatigue. It was very close to my regular
 12 exam, and so I followed up with that at that time.
 13 Q. Okay. So does it sound like probably
 14 the phone call was -- probably not before sometime
 15 in December?
 16 A. Correct.
 17 Q. Okay. Was it after the new year that
 18 you called?
 19 A. It could have been.
 20 Q. Okay. And then the appointment with
 21 Dr. Johnson -- when you're on the phone before that
 22 appointment -- back up.
 23 Was that appointment already on your calendar?
 24 A. Yes.
 25 Q. Had that appointment been scheduled from

8 (Pages 29 to 32)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 33

1 the last time you went in to see him?
 2 A. Yes.
 3 Q. And the last time you saw him was when?
 4 A. It would have been six months before
 5 that. I believe it was June.
 6 Q. That's your habit, every six months or
 7 so you go in for a checkup?
 8 A. Yes.
 9 Q. How about the cardiologist? Do you have
 10 kind of a standing routine for follow-up with him?
 11 A. Yes.
 12 Q. What is that?
 13 A. It's usually about every six months --
 14 Q. Okay.
 15 A. -- with a treadmill about every year.
 16 Q. So in the '06, '07, '08 time frame,
 17 you're seeing both doctors every six months pretty
 18 regularly?
 19 A. I don't think we -- yes, as far as I
 20 know.
 21 Q. Okay.
 22 A. As far as I can recall.
 23 Q. So when you called and you spoke with
 24 the nurse in Dr. Johnson's office right before you
 25 went to see him in January, you told her you were

Page 34

1 tired, yeah?
 2 A. Correct.
 3 Q. What else did you tell her about?
 4 A. Tired and sleepy. That was the main
 5 concern I had at the time. That wasn't like me,
 6 particularly the sleeping.
 7 Q. Okay. Did you tell her anything about
 8 irregular heart rhythm?
 9 A. I told her I had had some of those, but
 10 those I usually reserved for Dr. Mathew.
 11 Q. Okay. What about the shortness of
 12 breath at rest?
 13 A. Yes, I did tell them about that -- just
 14 really tired and short of breath and...
 15 Q. And do you know the name of the nurse
 16 that you spoke with?
 17 A. No.
 18 Q. Okay. Is it male or a female?
 19 A. It was a female.
 20 Q. Did you speak with the doctor on that
 21 phone call?
 22 A. No.
 23 Q. So you go in and see the doctor in
 24 January, and you tell him all the problems that you
 25 just told me?

Page 35

1 A. Yes.
 2 Q. And what was his response to all of
 3 that?
 4 A. He did lab tests. I can't remember all
 5 of them. He did check my thyroid and blood count,
 6 the things that you reasonably would do when someone
 7 has unexplained fatigue.
 8 Q. Did he do any testing of blood levels
 9 for digitalis?
 10 A. No -- not that I'm aware of. No, I
 11 shouldn't say that.
 12 Q. Not that you're aware of?
 13 A. Not that I'm aware of.
 14 Q. Did you and he during that -- during
 15 that visit have any discussion at all about the
 16 medications you were taking?
 17 A. We always review medications every
 18 visit.
 19 Q. Okay. So when you review medications,
 20 how do you do that?
 21 A. They already have a list, and we compare
 22 my current list with what they have, and correct it.
 23 Q. Okay. Do you remember having to make
 24 any corrections during that visit?
 25 A. No, I don't.

Page 36

1 Q. Okay. So as far as you recall, your
 2 list and his list were the same?
 3 A. Right.
 4 Q. All right. Did you and he have any
 5 discussion during that visit about Digitek?
 6 A. No.
 7 Q. Did he have any explanation for you as
 8 to what was causing the significant fatigue,
 9 shortness of breath, sleepiness, and the irregular
 10 heart rhythm?
 11 A. He did not. He did contact me -- or his
 12 nurse contacted me later on, and he did put me on an
 13 iron supplement, concerned maybe that my iron stores
 14 were not what they should be.
 15 Q. Okay. Do you remember him giving you
 16 any explanation at all for these conditions?
 17 A. No.
 18 Q. Nothing.
 19 Okay. Okay. So when you left his office in
 20 January '08, you would have scheduled ahead for the
 21 next six-month visit, correct?
 22 A. Correct.
 23 Q. And do you remember, when was the next
 24 time you actually saw Dr. Johnson after that date?
 25 A. I don't remember that date. It probably

9 (Pages 33 to 36)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 37

1 should have been somewhere around June, but I don't
2 recall.

3 Q. As you sit here today, is it your
4 recollection that you didn't go back in to see him
5 specially in between?

6 A. Correct.

7 Q. Whatever the next routine six-month
8 visit was was the next time you saw him?

9 A. Correct.

10 Q. By the time you went to see him for the
11 next six-month visit, were you still taking Digitek?

12 A. Yes -- well, let's see. I should say --
13 that's '08. Probably not --

14 Q. Okay.

15 A. -- because in the meantime, because of
16 the irregularity that was so noticeable and the
17 dizziness that was even worse, I contacted
18 Dr. Mathew's office.

19 Q. Okay. I was going to move on to talk
20 about him.

21 Did you see him at all, to your knowledge,
22 between October of '07 and the time in January that
23 you saw Dr. Johnson?

24 A. I do not recall that I did.

25 Q. Do you recall calling his office to tell

Page 39

1 Q. When you got to that new prescription
2 bottle of 90 tablets, the prescription bottle from
3 October of '07 went in the trash?

4 A. Yes.

5 Q. Okay. Did you take any photographs of
6 the contents of the tablets or the label or
7 anything?

8 A. No. I don't usually photograph my
9 medicine.

10 Q. Okay. So the next bottle that you get,
11 do you remember when you got that one?

12 A. I do not remember exactly. It would
13 have been approximately three months from October.
14 So...

15 Q. Did you typically get the Digitek at the
16 beginning of the month, the middle, or the end; do
17 you remember?

18 A. I don't recall that. I mean, it would
19 just vary as to when my medication -- I mean, I
20 usually just take a look at the bottle, do I need a
21 refill, and get online and order it.

22 Q. Okay. The next bottle, now, after the
23 one in October of '07, the next bottle that came,
24 when you opened that bottle to take your first
25 tablet and swallow it, did you notice anything about

Page 38

1 him about these symptoms?

2 A. No, I did not.

3 Q. Okay.

4 A. Until they became much more, and that
5 was in February --

6 Q. Okay. So February --

7 A. -- end of January, first part of
8 February.

9 Q. And this is when all the symptoms are
10 much worse, and now you're having light-headedness
11 and dizziness as well?

12 A. Correct.

13 Q. And by the time that February rolls
14 around, are you now into another bottle of Digitek?

15 A. Correct.

16 Q. Okay. And that was clear plastic with a
17 white childproof cap?

18 A. Correct.

19 Q. 90 tablets?

20 A. Correct.

21 Q. 0.25 milligrams?

22 A. Correct.

23 Q. And you got them in the mail as you
24 typically did from Caremark?

25 A. Correct.

Page 40

1 those tablets that looked any different at all from
2 the tablets that you had been taking before?

3 A. No.

4 Q. Do you remember how thick they were?

5 A. No.

6 Q. Do you remember noticing if any of the
7 tablets in either of these two bottles were thicker
8 than any of the other tablets?

9 A. No.

10 Q. Okay. They are still white tablets?

11 A. Correct.

12 Q. Do you remember in this next bottle if
13 the tablets had any markings on them?

14 A. I don't.

15 Q. And were you into this next bottle of
16 Digitek when you started having the worse
17 symptoms --

18 A. Yes.

19 Q. -- in February of '08?

20 A. Yes.

21 Q. Okay. All right. So you go to see
22 Dr. Mathews [sic]. When did you see him first in
23 '08? When did you go to see him?

24 A. I don't remember the date. I did -- I
25 believe when I called, he wanted to have a Holter

10 (Pages 37 to 40)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 41

1 monitor applied because of the irregular heart.
 2 Q. And so you did that?
 3 A. So I did that.
 4 Q. Okay.
 5 A. I did a 48-hour Holter monitor.
 6 Q. And then you went in to see him?
 7 A. Then I went in to see him.
 8 Q. And you described all the symptoms
 9 you've told me about?
 10 A. Correct.
 11 Q. Were there any other symptoms you were
 12 having when you went in to see him?
 13 A. Just those.
 14 Q. What did he say about those?
 15 A. He showed me the result of my Holter
 16 monitor and scheduled me for a cardiac cath as soon
 17 as he could get it in, and his thought at that time
 18 is that one of my grafts had collapsed.
 19 Q. One of your...
 20 A. Cardiac grafts.
 21 Q. Okay. What do you understand that that
 22 means?
 23 A. That means the new grafts that he put on
 24 my heart, one of them wasn't open anymore.
 25 Q. Okay. Was there any discussion at all

Page 42

1 about the medications you were taking during that
 2 visit with him?
 3 A. No. The same as with Dr. Johnson:
 4 Every time you go in, you update your medications.
 5 Q. And to do that, would you have taken
 6 that index card with you?
 7 A. Uh-huh.
 8 Q. Is that yes?
 9 A. Yes.
 10 Q. Do you remember, when you went to see
 11 Dr. Mathew in '08 for the first time during that
 12 year, were there any differences between his chart
 13 of what medications you ought to be taking and
 14 yours?
 15 A. No, not that I recall.
 16 Q. Were there any differences as to the
 17 dosage you were supposed to be taking?
 18 A. No.
 19 Q. Okay. All right. So your recollection
 20 is the only thing he has to say about the symptoms
 21 is maybe one of the grafts --
 22 A. Uh-huh.
 23 Q. -- has not held up?
 24 A. Correct.
 25 Q. All right. So you go get the cardiac

Page 43

1 cath, correct?
 2 A. Correct.
 3 Q. What does that show?
 4 A. My grafts were fine.
 5 Q. Okay. And did you find out about the
 6 results of that by going back in to see Dr. Mathew?
 7 A. No.
 8 Q. How did you find out about the results?
 9 A. He was standing right beside me when I
 10 was laying on the table.
 11 Q. Okay. All right. All right. So then
 12 is there some further discussions about what could
 13 be causing your symptoms?
 14 A. There was. He then admitted me to the
 15 hospital into cardiac care because of the severity
 16 of the ventricular flutter, which can be deadly.
 17 And so I had stayed there awaiting a transfer to
 18 Jewish Hospital here in Louisville so that I could
 19 have an electrophysiology exam by a cardiologist
 20 here. That's a specialty. So...
 21 Q. Okay. And you were transferred to the
 22 other hospital?
 23 A. Yes.
 24 Q. To Jewish Hospital?
 25 A. Yes, by ambulance.

Page 44

1 Q. And you had the workup done?
 2 A. Correct.
 3 Q. And was Dr. Mathew there for that?
 4 A. No.
 5 Q. Who was the doctor?
 6 A. Dr. Garimella.
 7 Q. Okay. And after that was done --
 8 A. He could not reproduce the irregularity.
 9 Q. Was there any discussion that you had
 10 with anybody there at the hospital, including Dr.
 11 Garimella, about what was causing the irregularity?
 12 A. Basically he said he did not understand
 13 why -- although he had had pictures of what had
 14 happened to me with the Holter monitor, he didn't
 15 understand -- he did change my medication at that
 16 point slightly. He added the spironolactone, 2.5,
 17 twice a day.
 18 Q. What is that supposed to do?
 19 A. That a diuretic, but it was a
 20 potassium-sparing diuretic. Anybody who has an
 21 irregular heart, you don't want their potassium to
 22 be too low.
 23 Q. Okay. And that's the only medication he
 24 changed?
 25 A. That's the only medication he changed.

11 (Pages 41 to 44)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 45

1 Q. And do you remember when you were at
2 Jewish Hospital for that?
3 A. Probably February 20th, 22nd, something
4 like that.
5 Q. Were you kept overnight for that?
6 A. Yes.
7 Q. Was it just the one night?
8 A. No, it was two nights.
9 Q. Two nights.
10 Okay. By the time you were discharged, how
11 were you feeling?
12 A. I was feeling fine.
13 Q. Okay. How about the shortness of
14 breath?
15 A. No.
16 Q. The fatigue was gone too?
17 A. Yes.
18 Q. The sleepiness was gone?
19 A. Yes.
20 Q. The irregular rhythms of your heart were
21 gone?
22 A. Yes.
23 Q. While you were in the hospital at Jewish
24 Hospital, did you continue to take Digitek or some
25 form of the same kind of medication?

Page 46

1 A. I did not take Digitek. I took
2 Lanoxin --
3 Q. Okay. Lanoxin.
4 A. -- in both hospitals.
5 Q. Oh, the first one and then Jewish
6 Hospital?
7 A. Right.
8 Q. Okay.
9 A. I went back and asked them what brand
10 they used after I got the recall because I could not
11 understand why I felt so good while I wasn't on the
12 medication, and then it all made sense.
13 Q. So you were on Lanoxin in the hospital,
14 same dosage?
15 A. Yes.
16 Q. 0.25?
17 A. Correct.
18 Q. Okay. When you were discharged from the
19 hospital, were you given a prescription for Lanoxin
20 or Digitek or digoxin?
21 A. My prescriptions had all been listed as
22 Lanoxin, but I got Digitek as a replacement. But I
23 did not get a new prescription from Dr. Garimella
24 because I already had the medication.
25 Q. So you already had some Digitek at

Page 47

1 home --
2 A. Uh-huh.
3 Q. -- right?
4 A. Correct.
5 Q. So you didn't get a new prescription for
6 anything like that?
7 A. No.
8 Q. All right. So when you went back home
9 again, then did you resume your once-in-the-morning
10 0.25 milligram Digitek?
11 A. Correct.
12 Q. Same routine, a couple of hours before
13 breakfast?
14 A. Correct.
15 Q. With the same medications and vitamins?
16 A. Correct.
17 Q. Did the symptoms come back?
18 A. Yes.
19 Q. When?
20 A. Within about a week, week and a half.
21 Q. And were they the same symptoms we've
22 talked about?
23 A. Yes.
24 Q. Were they -- were there any other
25 symptoms?

Page 48

1 A. No.
2 Q. Did they come back gradually or all at
3 one time?
4 A. I can't remember. I mean, I just
5 started noticing them again. So I just can't
6 remember which it was.
7 Q. Okay. So did you contact your doctors?
8 A. Yes, and -- well, they both wanted to
9 have at least a verbal follow-up.
10 Q. Okay. So you called both Mathew and
11 Johnson and you told them what?
12 A. Symptoms are the same.
13 Q. Okay. Everything is back?
14 A. Everything is back.
15 Q. And did you ask him what the heck is
16 going on?
17 A. Yeah.
18 Q. What did they say?
19 A. They weren't sure either.
20 Q. Okay. Did you go in to see them?
21 A. I don't believe I did.
22 Q. Okay. And for how long after that
23 release from Jewish Hospital was it that you
24 continued to suffer those symptoms?
25 A. That was like the end of -- the first

12 (Pages 45 to 48)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 49

1 part of March. I would have symptoms as I did
2 earlier in this whole thing, like the ones in
3 October, November, they were still there, but not as
4 severe as they had been through February, March.

5 MS. CRISWELL: Okay. Would you read
6 that back?

7 (THE PREVIOUS ANSWER WAS READ BACK BY
8 THE REPORTER.)

9 BY MS. CRISWELL:

10 Q. So I think what you're saying is, you
11 get out of Jewish Hospital, and a week or a week and
12 a half later, you have now resumed taking the
13 Digitek like you had before. So a week or a week
14 and a half later, you experience the same symptoms
15 as you had before, but they never get as bad as they
16 had in February of '08?

17 A. Correct.

18 Q. Okay. And for how long did those
19 continue?

20 A. They continued off and on until I got
21 the recall.

22 Q. And the refill was received about --

23 A. No, the recall.

24 Q. Oh, the recall. Okay.

25 A. I did get another refill, I think,

Page 50

1 January -- there should have been one in March.
2 January, February, March.

3 Q. Okay.

4 A. So I get another 90 days then.

5 Q. Okay. You so got another 90 days maybe
6 somewhere in March, right?

7 A. Correct.

8 Q. Same pills?

9 A. Same pills, looked the same, no
10 difference.

11 Q. Same color?

12 A. Correct.

13 Q. Same shape?

14 A. Correct.

15 Q. Any idea how thick those pills were?

16 A. No.

17 Q. I mean, could you compare it to a dime
18 or a quarter or a penny or a nickel?

19 A. No, I couldn't.

20 Q. Okay. Did you ever -- well, all right.

21 So you get a new prescription, and it all looks
22 the same, same container, right?

23 A. Correct.

24 Q. All right. And you're taking these, and
25 for how much longer did you take Digitek?

Page 51

1 A. Until the -- probably the first week,
2 week and a half in May.

3 Q. And what happened then?

4 A. I had gotten a letter from Caremark
5 telling me not to take them anymore -- not to stop
6 my medication, but to notify my primary care or my
7 cardiologist. They don't -- they didn't recommend
8 me stopping anything, but they wanted me to be
9 sure -- and they were going to replace my medication
10 with a different brand.

11 Q. What else did they say in the letter?

12 A. That there had been a recall, that
13 possibly the dosage was higher than it should have
14 been. That's all I can remember.

15 Q. Okay. You got the letter. You read the
16 letter?

17 A. Correct.

18 Q. And did you talk to your doctors about
19 it?

20 A. Yes, I did. Within a day, day and a
21 half.

22 Q. Who did you call?

23 A. Dr. Mathew.

24 Q. Okay. Did you call Dr. Johnson as well?

25 A. No.

Page 52

1 Q. Okay. So you called Dr. Mathew, and you
2 told him about the letter?

3 A. Well, actually, I called him because I
4 was having some chest pain, which was something
5 unusual for me --

6 Q. Okay.

7 A. -- and talked with his nurse.

8 But I said to her, "By the way, I got this
9 letter for a recall for Digitek. I just wondered if
10 that could -- could that be causing it?"

11 She said, "Oh, yes, very definitely it could
12 have been." So she was going to call him and call
13 me back, which he did.

14 Q. Okay. So you called her because of
15 chest pain.

16 When did the chest pain first start?

17 A. During the day when I was working.

18 Q. Okay. So whatever day that was that you
19 called, it was --

20 A. It was that day, yes.

21 Q. Okay. And how much after the recall
22 letter was it that the chest pain first started?

23 A. Within -- within -- by the time --
24 within 24, 48 hours.

25 Q. Okay. All right. So she said, "I'll

13 (Pages 49 to 52)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 53

1 tell the doctor, and we'll call you back"?
 2 A. Right.
 3 Q. Did she seem to acknowledge that she was
 4 aware of a recall?
 5 A. I understood that she was, just by her
 6 response when I -- when I said that I had gotten a
 7 letter for recall.
 8 Q. Okay. All right. And she said, "Yes,
 9 these symptoms could be causing" --
 10 A. Yes.
 11 Q. -- "the chest pain"?
 12 A. Yes, even the chest pain.
 13 Q. Okay. All right. And then she called
 14 you back or the doctor called you back?
 15 A. She called me back.
 16 Q. Okay. And what did she say?
 17 A. Dr. Mathew wanted me to stop taking the
 18 Digitek and actually stop Digitek -- none of it. He
 19 didn't want me on none of it.
 20 Q. Any of what?
 21 A. Any form of digoxin, digitalis.
 22 Q. Did you have other forms?
 23 A. No -- well, yes, I did, because Caremark
 24 had send me the Lanoxin brand.
 25 Q. Okay. Let me back up. I understood you

Page 54

1 said that you got Lanoxin in the hospital.
 2 A. Correct.
 3 Q. Did you also get Lanoxin by way of a
 4 prescription bottled from Caremark?
 5 A. No.
 6 Q. Okay.
 7 A. Except when the recall happened, they
 8 told me they were going to send me the Lanoxin brand
 9 and that I should contact my cardiologist, and
 10 that's what I did.
 11 Q. Okay. So at what point were you
 12 prescribed Lanoxin where it actually said, "Lanoxin"
 13 other than in the hospital?
 14 A. When Caremark sent me the replacement
 15 pills --
 16 Q. Okay.
 17 A. -- for the Digitek.
 18 Q. Okay. Did you return the Digitek that
 19 you had?
 20 A. No.
 21 Q. Okay. They just sent you Lanoxin?
 22 A. Correct.
 23 Q. Okay. And the bottle with the partial
 24 number of pills in it that your lawyer has, is that
 25 the leftover that you had when you got the recall

Page 55

1 letter?
 2 A. Yes.
 3 Q. Okay. Do you remember how many pills
 4 were left in the bottle?
 5 A. No, I don't.
 6 Q. It would have been less than 90?
 7 A. Yes.
 8 Q. Yeah. Did you give him any other
 9 tablets that you believed to be Digitek or Lanoxin
 10 or digoxin?
 11 A. No.
 12 Q. Okay. In your fact sheet, you identify
 13 117 pills.
 14 Where are those coming from; do you know?
 15 A. 117?
 16 Q. Okay. We'll walk through that in a few
 17 minutes.
 18 A. Okay.
 19 Q. It just puzzled me.
 20 All right. Before you gave the pill bottle
 21 with the remaining pills in it from the most recent
 22 prescription to your lawyer, did you count them out
 23 to see how many there were?
 24 A. No.
 25 Q. Do you have any estimate as to how many

Page 56

1 there were?
 2 A. That would just purely be a guess, maybe
 3 25, 30. I don't know.
 4 Q. Okay. Did it look to you -- I mean,
 5 typically there would be 90 in the bottle, right?
 6 A. Correct.
 7 Q. Typically if there were 90 in the
 8 prescription bottle, was the bottle pretty full?
 9 A. No.
 10 Q. What would be the level of the tablets
 11 in the bottle?
 12 A. About a third maybe.
 13 Q. So even if it had 90, it would be a
 14 third full?
 15 A. Well, yes, because they were small
 16 pills.
 17 Q. Okay. All right. So when you sent the
 18 bottle to your lawyer with the remaining pills in
 19 it, thinking of how it would have looked if it had
 20 90, can you give me some estimate as to how many
 21 might have been left?
 22 A. I don't recall. I really don't.
 23 Q. Okay. You didn't add any pills to it
 24 before you sent it to him?
 25 A. Oh, no.

14 (Pages 53 to 56)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 57

1 Q. Okay. You'll find out why I'm asking
2 because I'm puzzled about the number.
3 So the RN from Dr. Mathew calls you back and
4 says, "Don't take that anymore."
5 And what else?
6 A. "Don't take that, and then we would do a
7 regular follow-up." And I cannot remember when the
8 follow-up was. I was supposed to call them back if
9 I continued to have the symptoms or if the symptoms
10 got better, and I did.
11 Q. So basically the instruction you got
12 from his nurse was "Just stop taking those"?
13 A. "Just stop taking any digitalis
14 product."
15 Q. Okay. Had you gotten the Lanoxin yet
16 from Caremark?
17 A. I believe I got it the next day.
18 Q. And did you take any of that?
19 A. No, because he had already told me not
20 to.
21 Q. Okay. So the next time that you took
22 any digoxin/digitalis-type medication was when?
23 A. I haven't.
24 Q. Not since then?
25 A. Correct.

Page 58

1 Q. Okay. Have your doctors given you any
2 substitute medication to do what the digitalis-type
3 product was supposed to do for your heart?
4 A. I'm on Toprol. That's the only thing
5 that's close to it.
6 Q. And you were already on that before?
7 A. I was.
8 Q. Okay. Okay. And have you talked to
9 Dr. Mathew further after that about what was causing
10 chest pains?
11 A. Correct, I did.
12 Q. What did he say?
13 A. I asked him directly. I said, "We're
14 all aware of the recall, and that was probably the
15 basis for my symptoms." That was the question, and
16 he said, "Yes."
17 Q. Okay. Did you talk to any other medical
18 practitioners about what was causing --
19 A. I also told my primary care doctor.
20 Q. That's Johnson?
21 A. Yes.
22 Q. What did he say?
23 A. He said, "What did Dr. Mathew say?"
24 Q. Okay. So Johnson didn't have his own
25 opinion?

Page 59

1 A. No, but he defers to the cardiologist.
2 Q. Okay. All right. So the doctor who
3 told you that the chest pains were caused by the
4 Digitek was Dr. Mathew?
5 A. Correct.
6 Q. How about the shortness of breath, the
7 fatigue, the sleepiness, the irregular rhythm? Has
8 any doctor told you now what caused that?
9 A. Only Dr. Mathew.
10 Q. Okay. He said chest pains were caused
11 by Digitek?
12 A. No, the symptoms because he had known
13 the symptoms. That's the reason he did the cardiac
14 cath.
15 Q. So --
16 A. So it wasn't just chest pain, no. That
17 was the whole array of symptoms.
18 Q. Okay. All right. So what was your
19 understanding as to why you were prescribed a
20 digitalis-type product back in February of '06?
21 What was it for?
22 A. Digitalis is used with cardiac patients
23 frequently for -- it slows the heart, which is what
24 it's supposed to do. It also makes it beat faster,
25 and cardiac patients usually need that. I don't

Page 60

1 know too many cardiac patients that weren't placed
2 on that.
3 Q. Some type of digitalis product?
4 A. Correct.
5 Q. Have you -- let's back up.
6 Until October of '07 -- from February of '06 to
7 October of '07, you were getting the benefit of the
8 product you were taking, the Digitek?
9 A. I would say yes.
10 Q. Okay. And from October of '07 until May
11 of '08, except for the hospital, you were still
12 taking that medication?
13 A. Correct.
14 Q. Was it still giving you the benefit that
15 you needed for your heart during that period of
16 time?
17 A. I don't know.
18 Q. Okay.
19 A. I mean, I can't say. Considering the
20 symptoms, I would say not.
21 Q. When you first were prescribed Digitek,
22 did your doctor explain to you, "If you don't take
23 this, here is what your heart could do"?
24 A. No, he didn't.
25 Q. Did you have some understanding --

15 (Pages 57 to 60)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 61

1 A. Definitely.

2 Q. -- what your heart could do? What did
3 you understand your heart could do if you didn't
4 take it?

5 A. It would not be nearly as efficient.
6 You know, if it's beating slower, if it's beating
7 stronger, that's got to be better for profusion of
8 your whole body, including profusion of the heart
9 itself. I'm very much aware of digitalis and what
10 it did, so...

11 Q. I guess what I'm trying to understand
12 is, if you have a heart condition such as you have
13 and you are not taking a medication like this,
14 ultimately you could -- you could die from lack of
15 some ability to regulate the rhythm and the
16 regularity of your heartbeat, right?

17 A. That's variable with different patients.
18 I'm not a cardiologist to be able to tell you that,
19 but obviously I'm doing all right without it and
20 probably better than I would with it at this point.
21 He didn't seem to think it was a problem. He wanted
22 to just watch, and I've done well.

23 Q. So I might ask my doctor, under these
24 circumstances that you described to me, "Why did you
25 put me on that in the first place? If Toprol is

Page 62

1 doing the job, why you did put me on a digitalis
2 product at all?" Did you ever ask the doctors that?

3 A. No.

4 Q. Did they ever offer an explanation for
5 that?

6 A. No.

7 Q. Okay. And just to try to tie this up,
8 the risk of not taking the digitalis product that
9 you were prescribed, do you have an understanding
10 that one of the risks of not taking it might have
11 been your heart would fail to function?

12 A. I've never been in heart failure, and
13 that is one of the reasons why it's given. But I
14 didn't worry about that. If Dr. Mathew was all
15 right with it, I was all right with it. He knows
16 better than I do about the function of digitalis.

17 Q. Okay. And Toprol, do you know what
18 family of medicines that is in?

19 A. Toprol is a betablocker, and don't ask
20 me exactly what that means, because I don't know.
21 But I do know that it affects the heart in a way
22 sort of similar to digitalis, but in a different
23 way.

24 Q. Are you having any -- as we're sitting
25 here today, are you having any of that shortness of

Page 63

1 breath, sleepiness, irregular rhythm?

2 A. No.

3 Q. So all of those symptoms stopped when?

4 A. When I stopped the Digitek.

5 Q. And was that in May of '08?

6 A. Correct.

7 Q. And did they stop immediately when you
8 stopped taking them?

9 A. Within three to four days.

10 Q. Okay. Okay. Are you making a wage loss
11 claim because of having taken Digitek?

12 A. I did miss a lot of my work. I had to
13 take my vacation -- I mean, my sick time. That was
14 about three weeks: a week in the hospital and two
15 weeks after that.

16 Q. Okay. But are you making a claim in
17 this lawsuit for money damages for losing wages?

18 MR. JONES: Yes, she is.

19 MS. CRISWELL: I'm not asking you what
20 you think she's claiming.

21 MR. JONES: We filed a lawsuit.

22 MS. CRISWELL: I'm asking her what she's
23 claiming.

24 A. The way I understand it, yes.

25 Q. Okay. Let me -- have you seen any

Page 64

1 psychologists or psychiatrists for any of these
2 problems that you associate with having taken
3 Digitek?

4 A. No. I do see a psychiatrist every day
5 because I work with one, but, no.

6 Q. Okay. All right. Have you taken any
7 medication for anxiety or stress or fears or
8 anything that you may attribute to having taken
9 Digitek?

10 A. No. Routinely I take Zoloft, and I have
11 for years, but that's all. It was before, and it
12 continues now.

13 Q. Just real quickly on the wage loss since
14 we were just talking about that, Ms. Ard, I have --
15 we've marked these -- I sort of marked these
16 backwards, but this is Exhibit 2. This is a fact
17 sheet that was submitted, as I understand it, to
18 identify your claims in this case.

19 Have you ever seen that?

20 A. Yes, I have.

21 Q. When is the first time that you saw
22 that?

23 A. Gosh, I can't remember when I first saw
24 it because it had been amended too.

25 Q. Yeah, I think page 18 has a signature on

16 (Pages 61 to 64)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 65

1 it, if you maybe could flip to that real quick.
 2 A. Okay. July.
 3 Q. Okay. So that's your signature?
 4 A. Yes.
 5 Q. And you signed this document, this part
 6 of it at least, July 1 of '09?
 7 A. Correct.
 8 Q. Did you fill this out?
 9 A. Yes.
 10 Q. And how did you fill it out?
 11 A. I filled it out with a representative
 12 from Dr. -- from Mr. Jones's office --
 13 Q. Okay.
 14 A. -- and just answered the questions.
 15 Q. Okay. Were there any materials that you
 16 referred to in order to answer the question, or was
 17 it just as your recollection provided?
 18 A. I did have some information on -- for as
 19 specific dates as I could get, but the rest of it
 20 was mostly by memory.
 21 Q. So it sounds like you had some things to
 22 refer to as you were filling this out?
 23 A. Correct.
 24 Q. What do you remember about what you were
 25 looking at?

Page 66

1 A. We had some of the receipts for the
 2 Digitek, you know, when I got them and when I got a
 3 new prescription, things like that -- and then to be
 4 sure that I had my dates right as far as surgeries
 5 and that sort of thing.
 6 Q. And your recollection is the
 7 prescriptions for that whole period of time we've
 8 been talking about, they all said, "Digitek," not
 9 some other word?
 10 A. Yes.
 11 Q. They didn't say, "digoxin"?
 12 A. No.
 13 Q. If we look at page five of Exhibit 2 of
 14 the fact sheet --
 15 A. Okay.
 16 Q. -- do you see question five there?
 17 MR. JONES: Well, you can answer the
 18 question.
 19 BY MS. CRISWELL:
 20 Q. Do you see the question?
 21 A. Yes.
 22 Q. Do you see the answer?
 23 A. Yes, I do.
 24 Q. Was that your answer when you signed
 25 this in July of '09?

Page 67

1 A. If that's what it says, that's what I
 2 answered.
 3 MR. JONES: We can amend it. We will
 4 amend it.
 5 THE WITNESS: Okay.
 6 BY MS. CRISWELL:
 7 Q. Let me ask and follow up, then.
 8 Are you saying now that you would make a loss
 9 of earnings claim?
 10 A. Right. "If yes, state the annual gross
 11 income," and in the last five years, I mean, it
 12 wasn't a gross income annually. It was just the
 13 weeks. So I answered the question in the way I
 14 thought it should be answered.
 15 Q. The question is, "Are you making a claim
 16 for lost wages or lost earning capacity," right?
 17 A. Right.
 18 Q. And the answer that you provided in July
 19 of '09 was "no."
 20 A. Correct.
 21 Q. So now you want to make a claim for loss
 22 of earnings.
 23 When did you decide to make a claim for lost
 24 earnings in this case?
 25 MR. JONES: Let me interject here

Page 68

1 because I think that this is probably the result of
 2 a mistake on behalf of my associate in making that
 3 answer that way. Ms. Ard has testified that she
 4 missed work, and I told you that we'll amend the
 5 fact sheet. So you can ask her questions about it,
 6 but --
 7 MS. CRISWELL: Thank you.
 8 MR. JONES: I object to the extent that
 9 you're somehow trying to suggest that she's done
 10 something wrong by answering "no" on the fact sheet.
 11 We'll amend it.
 12 BY MS. CRISWELL:
 13 Q. Let's back up.
 14 Before you signed this document on July 1 of
 15 this year, Ms. Ard, did you read it?
 16 A. Yes.
 17 Q. Okay. Did you make any changes to that
 18 answer when you read it?
 19 A. No.
 20 Q. Okay. Because if you had made a change,
 21 it would have been changed, right?
 22 A. Right.
 23 Q. Okay. Did you tell anybody on July 1
 24 when you signed this document that there was
 25 anything in here that needed to be corrected?

17 (Pages 65 to 68)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 69

1 A. No.
2 Q. Okay. Was it your intention, as of
3 July 1, not to make a claim for lost earnings?
4 A. Yes, because I didn't think, because of
5 the way it's stated...
6 Q. What is it about the way it's stated
7 that --
8 A. Well, it sounds more like for someone
9 who has been injured and they are no longer able to
10 work. That's how I took that.
11 Q. Okay. Did you ask anybody to clarify
12 what this meant?
13 A. No.
14 Q. All right. So what is the amount of
15 your lost wages, lost earnings claim?
16 A. It would be three weeks of sick time,
17 and that would be 120 hours.
18 Q. So dollar-wise, what are we talking
19 about?
20 A. Take that times \$42.
21 Q. Whatever that is?
22 A. Whatever that is.
23 Q. Okay. And during what period of time
24 were the three weeks?
25 A. They were during that week I was in the

Page 70

1 hospital and two weeks thereafter.
2 Q. Okay. This was the hospital, then
3 transferred to Jewish Hospital?
4 A. Yes.
5 Q. Okay. Are there any other monetary
6 losses that you personally are claiming in this
7 lawsuit?
8 A. There's doctors' co-pays, our deductible
9 for the hospital admissions, anything that wasn't
10 covered by my insurance.
11 Q. Okay. What was the deductible?
12 A. I can't remember what our deductible is.
13 It changes from year to year, and I can't remember
14 at this point what it was.
15 Q. Can you give me a rough approximation?
16 A. \$300.
17 Q. Okay.
18 A. That's a guess.
19 Q. Okay. Total guess, or does it have some
20 basis in reality?
21 A. Well, I know at least one year, that's
22 what it was, and I don't remember which year that
23 was.
24 Q. And how about co-pays? What is your
25 claim for co-pays?

Page 71

1 A. Co-pays, until this year, they've all
2 been \$20 every time I went to the doctor. Then
3 there were other -- any time you go and you have a
4 treadmill or something, it doesn't all get paid for.
5 Q. Well, what number of doctor visits are
6 you claiming you would not have had to have had but
7 for the Digitek?
8 A. The one I had in January would have been
9 our scheduled one. That would have been a \$20 one,
10 but then the one with Dr. Mathew after that.
11 Q. Okay. The one with Dr. Johnson, you
12 would have been doing anyway?
13 A. Correct.
14 Q. So we're talking about one co-pay for
15 one visit with Dr. Mathew?
16 A. Yes.
17 Q. Any other monetary damages that you are
18 claiming in this case?
19 A. I don't remember exactly how much we had
20 to pay out for hospitalization and testing, but I do
21 not remember that number. It's here somewhere, but
22 I don't remember the number.
23 Q. How would you figure out what that
24 number is if you wanted to?
25 A. We would look at our explanation of

Page 72

1 benefits.
2 Q. Do you keep those?
3 A. Yes.
4 Q. Okay. How far back do you keep those?
5 A. Way back. My husband is meticulous.
6 Q. Okay. All right. So you would have the
7 ability to reconstruct that?
8 A. Correct.
9 Q. Okay. Any other out-of-pocket -- call
10 them out-of-pocket monetary damages that you're
11 seeking?
12 A. I can't think of any right this minute.
13 Q. All right. Are you seeking any -- we'll
14 circle back around to this in a minute. Let me talk
15 to you about the 117 tablets. Okay?
16 If you would, look at page six of Exhibit 2.
17 Do you see question six, which talks about packaging
18 or tablets? Do you see that?
19 A. Yes.
20 Q. So the packaging that your attorney has
21 would be that one plastic bottle -- clear plastic
22 bottle with a screw top --
23 A. Uh-huh.
24 Q. -- screw top, white childproof lid,
25 right?

18 (Pages 69 to 72)

Lorena Ard

Page 73

1 A. Right.
 2 Q. Any other packaging that you're aware of
 3 that your attorney has --
 4 A. No.
 5 Q. -- that would have related to
 6 medications you took?
 7 A. No.
 8 Q. Now, you see 6B. It says, "117 by
 9 counsel's count."
 10 Do you see that?
 11 A. Yes, I do.
 12 Q. So do you know where the 117 tablets
 13 came from?
 14 A. I'm assuming they were in the bottle
 15 that I gave him.
 16 Q. Well, if the maximum prescription that
 17 you would have ever had would have been 90 -- and
 18 you took some of them --
 19 A. Uh-huh.
 20 Q. -- yes? How do you get 117?
 21 A. I don't have any idea.
 22 Q. Okay. All right. The bottle you gave
 23 his office would have had something less than 90 in
 24 it?
 25 A. Yes.

Page 74

1 Q. Okay. To your knowledge, has anybody
 2 tested any of those tablets?
 3 A. Not to my knowledge, no.
 4 Q. Okay. The lot numbers -- the lot number
 5 or numbers that were on the tablets or with the
 6 tablets that are in that one bottle --
 7 A. Uh-huh.
 8 Q. -- do you recall in that letter that you
 9 got from Caremark whether there were lot numbers
 10 identified?
 11 A. I do not recall there was a lot number.
 12 Q. Your recollection is there was not?
 13 A. There was not.
 14 Q. Okay. Is there a lot number on the
 15 label of the bottle that you gave your lawyer with
 16 the remaining tablets inside?
 17 A. I don't know. I'm not sure.
 18 Q. Okay. So the question -- I'm looking at
 19 page seven now, where it says 7A: "Do you know the
 20 lot numbers for any of the Digitek that you
 21 received," and it says, "yes."
 22 Do you know if that's accurate?
 23 A. It says, "See attached records." I'm
 24 assuming that's where the number is.
 25 Q. Unfortunately I don't have any

Page 75

1 attachment that tells me that.
 2 A. If you're asking me, do I remember the
 3 lot number, no.
 4 Q. There's an expiration date in 7B of
 5 February 15 of '09.
 6 Do you see that?
 7 A. Yes.
 8 Q. Do you know if that expiration date is
 9 on the label for the one bottle that you gave your
 10 lawyer?
 11 A. I do not know.
 12 Q. Have you ever communicated with any of
 13 the defendants in this case?
 14 A. No.
 15 Q. Has your husband?
 16 A. No.
 17 Q. Okay. Now, I'm looking at -- now I'm
 18 looking at question nine, and the medication that's
 19 identified here -- it says, "After surgery and
 20 before Digitek, possibly February '06" -- it says,
 21 "digoxin."
 22 Do you see that?
 23 A. I do.
 24 Q. What was that for?
 25 A. That was when I was in the hospital.

Page 76

1 Q. For what?
 2 A. I mean, during the time I was in the
 3 hospital, I was getting the digoxin, Lanoxin brand.
 4 That's why it's written that way.
 5 Q. So it was really Lanoxin, not digoxin?
 6 It didn't say, "digoxin" on it; it said, "Lanoxin"?
 7 A. That's the brand that the hospital uses,
 8 Lanoxin brand.
 9 Q. And this is Jewish Hospital?
 10 A. No, this is Owensboro Medical Health
 11 System.
 12 Q. Okay. I apologize for not knowing your
 13 medical history as well as you do, but when was that
 14 hospitalization?
 15 A. That was February 18th of 2006.
 16 Q. Okay. And you didn't return the
 17 Digitek. Why did you not return it?
 18 A. If I recall, they didn't even ask that I
 19 return it. So I wasn't going to send it back. It
 20 wouldn't make any difference.
 21 Q. So your recollection is whatever you got
 22 from Caremark didn't say anything?
 23 A. Correct.
 24 Q. Okay.
 25 A. Only that they were going to be sending

19 (Pages 73 to 76)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 77

1 me a replacement.
 2 Q. Have you done any research on
 3 digitalis-type medications?
 4 A. I did research on the computer for
 5 Digitek.
 6 Q. You did?
 7 A. Once I got the letter, I did.
 8 Q. Okay. And where did you go and what did
 9 you find?
 10 A. I went and the first thing I looked up
 11 was FDA to see what the actual recall stated.
 12 Q. Do you remember what that said?
 13 A. It said something to the effect that the
 14 dosage would have been higher. The tablets were
 15 approximately twice what they should have been.
 16 That's vaguely what I remember.
 17 Q. Did they say twice the thickness of what
 18 they should have been?
 19 A. It might have. I don't remember.
 20 Q. Did you ever, to your knowledge, see in
 21 any of the pill bottles of Digitek any tablet that
 22 looked twice as thick as any of the tablets you had
 23 taken?
 24 A. No.
 25 Q. Okay. So you looked at the FDA website.

Page 78

1 Did you print anything off that you found on
 2 there?
 3 A. I printed the FDA off. I also went on
 4 the pharmaceutical company's website to see what
 5 they had to say about it.
 6 Q. Which company's?
 7 A. The Actavis -- Actavis.
 8 Q. Okay.
 9 A. Did I say it right?
 10 Q. Yeah.
 11 A. Okay.
 12 Q. Anybody else's website?
 13 A. No.
 14 Q. What do you remember about what
 15 Actavis's website said?
 16 A. It basically said the same thing that
 17 the FDA said. It wasn't new information.
 18 Q. Okay.
 19 A. I will tell you the main reason I went
 20 on was that was right after some recall on
 21 medications for things being made in China. I
 22 wanted to see where my medication was made, and it
 23 was made in New Jersey.
 24 Q. Did you print off what was on the
 25 Actavis website as well?

Page 79

1 A. Yes.
 2 Q. Where are those?
 3 A. I have no clue.
 4 Q. Do you think you still have them?
 5 A. It's possible, but I don't know where
 6 they might be.
 7 Q. Okay. You may or may not have them; you
 8 don't know at this point?
 9 A. I don't know at this point.
 10 Q. Did you do any other research? And I'm
 11 not limiting myself to just going on the computer.
 12 Did you do any other research on Digitek or
 13 digitalis products or the companies that manufacture
 14 them?
 15 A. No.
 16 Q. The first time you had an abnormal heart
 17 rhythm in your life was when?
 18 A. Oh, gosh, when I was in the -- if we're
 19 talking about -- you're talking about abnormal, not
 20 the normal PVCs that normal people have, it was
 21 after surgery.
 22 Q. Which was?
 23 A. February 18th, 2006.
 24 Q. Okay.
 25 A. That's not unusual after surgery.

Page 80

1 Q. That's not unusual to begin to have
 2 those after that type of surgery?
 3 A. Right.
 4 Q. Okay.
 5 A. When you mess with the heart, it
 6 irritates the muscle, and it complains about it.
 7 Q. Page nine of your fact sheet, one of the
 8 boxes that's checked "yes" is "Depression, Anxiety,
 9 Schizophrenia, Bipolar Disorder."
 10 Do you have any of those?
 11 A. I have depression.
 12 Q. Okay. Do you still?
 13 A. Yes.
 14 Q. And what is that caused by?
 15 A. It's familial. It runs in my family.
 16 Q. Okay.
 17 A. There's not any --
 18 Q. Do you take any medication for that?
 19 A. Yeah, Zoloft, what I mentioned earlier.
 20 Q. So that has nothing to do with Digitek?
 21 A. No.
 22 Q. Okay. And the nitroglycerine that you
 23 took at some point, was that in '08 that you took
 24 that for the first time?
 25 A. I believe so. I don't think I have -- I

20 (Pages 77 to 80)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 81

1 mean, I always carry it with me, but I don't think
 2 I've had a reason to take it before then.
 3 Q. You've carried it with you since then?
 4 A. Since my open heart surgery.
 5 Q. Okay. And the first time you ever took
 6 it, then, was when?
 7 A. In '08, I believe.
 8 Q. Okay. And do you remember when in '08?
 9 A. The day that I ended up talking with
 10 Dr. Mathew, which would have been May.
 11 Q. After the Holter monitor?
 12 A. Uh-huh.
 13 Q. Yes?
 14 A. Yes.
 15 Q. Your two daughters, Amy and Gina, and
 16 your husband are listed as fact witnesses. This is
 17 on page 16 of the fact sheet.
 18 You live with your husband --
 19 A. Correct.
 20 Q. -- right?
 21 Your daughters, I presume live, in their own
 22 homes?
 23 A. Correct.
 24 Q. What would the two daughters be able to
 25 provide as far as information about your health

Page 82

1 condition?
 2 A. The main -- they were with me during
 3 my -- when I had open heart surgery. I had a
 4 cardiac cath and went directly to open heart. They
 5 were with me for that. They have been with me when
 6 my husband couldn't -- visit to Dr. Mathew. My
 7 youngest daughter, Gina, went with us over here to
 8 Louisville for that treatment.
 9 Q. Okay. During the time that you were
 10 taking Digitek, did you ever take more than one
 11 tablet at a time?
 12 A. No.
 13 Q. Did you ever miss a day?
 14 A. Yes.
 15 Q. Okay. And what would you do if you
 16 missed -- you know, in the morning, you just didn't
 17 take the pill?
 18 A. Take it the next day.
 19 Q. You never took it later in the same day?
 20 A. No.
 21 Q. Why not?
 22 A. Because I'm a nurse and I know better.
 23 Q. Okay. Have you ever been on any other
 24 medications in your life that were subject to a
 25 recall?

Page 83

1 A. No.
 2 Q. All right. A few more questions on the
 3 fact sheet: If you keep on going down through the
 4 fact sheet, after page 18, there's no page numbers
 5 on the bottom.
 6 A. Okay.
 7 Q. But it begins with -- there's some more
 8 Roman numerals. If you could look at Roman numeral
 9 five, which is "Additional" -- it's about six pages
 10 in from the bottom of the package.
 11 A. Okay. Would that be 4B?
 12 Q. It's Roman numeral five.
 13 A. "Additional Medications"?
 14 Q. It says, "Additional Medications."
 15 A. Okay.
 16 Q. Do you remember providing information
 17 that was used to fill this chart out? And it goes
 18 on to the next page.
 19 A. Yes.
 20 Q. Okay. Do you recall when you provided
 21 that additional information?
 22 A. That would have been -- that would have
 23 been in July.
 24 Q. Would it have been before you signed the
 25 fact sheet?

Page 84

1 A. I don't remember.
 2 Q. Where did you get the information to use
 3 to fill in the additional medications on the chart?
 4 A. From my -- what I usually take. I mean,
 5 I know what I take.
 6 Q. Did you have that index card available,
 7 and that's what you used?
 8 A. Yes.
 9 Q. Okay. In that chart, the dates of use
 10 are not filled out, and the number of the items
 11 starting on the second page of the chart, there's
 12 no -- there's no fill-in for the dosage.
 13 Would you be able to fill in the dosages and
 14 the dates of use for each of these?
 15 A. Yes.
 16 Q. And would you have the records with you
 17 to do that?
 18 A. Yes.
 19 MS. CRISWELL: Okay. Counsel, if we
 20 could get your help with getting that chart
 21 completed, that would be great because it sounds
 22 like your client has the information to do that. So
 23 it sounds like a reasonable request.
 24 MR. JONES: Sure.
 25 BY MS. CRISWELL:

21 (Pages 81 to 84)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 85

1 Q. The Toprol, T-O-P-E-R-A-L, that's how
2 that's spelled [sic]?
3 A. Yes.
4 Q. Do you remember when you first started
5 using that?
6 A. I'm reasonably sure it was right after
7 my surgery.
8 Q. This would be the open heart surgery --
9 A. Correct.
10 Q. -- which was in --
11 A. '06.
12 Q. -- February of '06?
13 A. Correct. I would have to go back and
14 look, but that's when I think it was.
15 Q. Okay.
16 A. Now, it was changed a little bit to
17 37.5.
18 Q. Do you recall when that change took
19 place?
20 A. I do not.
21 Q. Would you have records at home that
22 would help you figure that out?
23 A. I probably -- I'm not sure, but --
24 Q. Okay. Dr. Brien -- no, Dr. O'Brien --
25 A. Yes.

Page 86

1 Q. -- O'Brien is what kind of a doctor?
2 A. He's a pulmonologist.
3 Q. And you've seen him yearly for the last
4 eight years?
5 A. Correct.
6 Q. What do you see him for?
7 A. I have sleep apnea.
8 Q. Okay. And did that start eight years
9 ago?
10 A. Actually, it started earlier than that,
11 but I switched doctors. So previous to that, it was
12 Dr. Lombard for about two years before that.
13 Q. Do you take anything for sleep apnea?
14 A. I use a CPAP machine.
15 Q. And you're still working full time?
16 A. Yes.
17 Q. And full time for you is how many hours
18 a week, probably more than 40, I bet?
19 A. I would say yes. Actually, I'm back to
20 about four days a week now. I have so much vacation
21 time I have to take.
22 Q. Oh, very good.
23 A. I don't know if that's good or bad. If
24 you have so much vacation time, that's the bad part.
25 Q. Yeah. Okay. But you're still working

Page 87

1 in a full week's work at the hospital?
2 A. Yes.
3 Q. Do you have any plans to retire?
4 A. Yes.
5 Q. When would that be?
6 A. February.
7 Q. Oh, very nice.
8 A. Uh-huh.
9 Q. Use up that vacation.
10 A. Yes.
11 MS. CRISWELL: Okay. How about we take
12 a five-minute break and everybody stretch, and then
13 we'll get regrouped and wrap this up.
14 (A BRIEF RECESS WAS TAKEN.)
15 BY MS. CRISWELL:
16 Q. Okay. So let's see here. When you --
17 being a nurse -- and I expect you're the sort of
18 person that reads package inserts on medications --
19 A. Yes.
20 Q. -- and understands what she's looking
21 at?
22 And when you first got Digitek, the very first
23 time back in '06, I assume you read the package
24 insert that came with it?
25 A. No.

Page 88

1 Q. No?
2 A. I didn't because one of my projects when
3 I was a baby nurse was that I wrote a paper on
4 digitalis products.
5 Q. You did?
6 A. I did. So I didn't feel like I needed
7 it.
8 Q. Okay. And did you publish that paper?
9 A. No.
10 Q. Who did you write it for?
11 A. St. Mary's Hospital School of Nursing.
12 Q. Okay. So when you were a nurse -- a
13 nursing student --
14 A. Yes.
15 Q. -- you wrote a paper on the very type of
16 medicine that we're talking about here?
17 A. Yes.
18 Q. Do you have a copy that?
19 A. No. I graduated in 1965. No.
20 Q. Okay. Well, I don't know. You know,
21 you may --
22 A. I do have a few things from back then,
23 but, no.
24 Q. Okay. Do you know of anybody who might
25 have a copy of that article?

22 (Pages 85 to 88)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 89

1 A. No.
2 Q. Was it published at St. Mary's in any
3 kind of a magazine --
4 A. No.
5 Q. -- or a newspaper?
6 A. No. It was used in our pharmacology
7 classroom.
8 Q. Okay. What do you -- based your
9 research, what were the identified risks of
10 digitalis-type medication?
11 A. Digitalis can cause fatigue, sleepiness.
12 In fact years and years ago, ancient times, they
13 gave it for sleep because it made people sleepy
14 because it slowed their heart down. It strengthens
15 the heart. It slows the heart in a good way, not a
16 bad way. It can cause heart irregularity at toxic
17 levels and cause -- and exacerbate all those other
18 things I said, fatigue, et cetera.
19 Q. Okay. So when you first started
20 experiencing more fatigue than you were ever used to
21 having and the shortness of the breath and the
22 irregular heart rhythm and the sleepiness, did you
23 make the connection?
24 A. No, I did not.
25 Q. Did it cross your mind at all that it

Page 90

1 might have anything to do with the medication?
2 A. No.
3 Q. Okay.
4 A. I trusted that my medications were going
5 to be what they were supposed to be and the dosage
6 that they were supposed to be, and I don't ever take
7 more than I should ever.
8 Q. Okay. Did you make the connection with
9 your understanding, your background as a nurse, and
10 having researched this exact type of medication in
11 the past -- did you make the connection that there
12 might be some connection there beginning with the
13 Digitek prescription in October of '07, which you
14 said, you know, coincided with the increase in
15 symptoms?
16 A. No, I did not.
17 Q. Okay. Were you concerned at all the
18 first time that you were prescribed Digitek --
19 concerned about taking it?
20 A. No, I just noticed that it was a generic
21 rather than the name brand.
22 Q. Digitek is a generic?
23 A. Well, it's not the Lanoxin name brand,
24 which is what I had been taking.
25 Q. So let me understand. In your

Page 91

1 understanding, the name Lanoxin is a name brand?
2 A. Correct.
3 Q. And the name Digitek is a generic for
4 Lanoxin?
5 A. For digitalis.
6 Q. Okay. What is digoxin?
7 A. A form of digitalis. Digitalis is the
8 base -- digoxin is the base. Lanoxin is the
9 medication.
10 Q. Okay. And you think Digitek is the
11 generic for --
12 A. Well, it is not the Lanoxin brand.
13 Q. Okay. Is Digitek a brand or a generic?
14 A. (Indicating).
15 Q. You don't know?
16 A. I don't know. I'm assuming it was -- a
17 lot of the medications that are generic have their
18 own name, venlafaxine for Effexor and things like
19 that.
20 Q. Okay. Are you sure that the
21 digitalis-type medication that you began getting in
22 February of '06 was designated Digitek and not
23 digoxin?
24 A. It was Digitek.
25 Q. You're sure?

Page 92

1 A. Yes.
2 Q. Okay. Do you have pharmacy records or
3 proof of -- you know, explanation of benefits
4 paperwork or anything that would confirm that?
5 A. Yes.
6 Q. Okay. At home?
7 A. We have -- from Caremark, we got the
8 information back. We could only go back a year, but
9 it's always been Digitek.
10 Q. So it's your recollection that there is
11 paperwork that confirms that is a specific
12 designation given since February of '06 for what you
13 were getting?
14 A. That's right.
15 Q. Okay. Do you know anybody else now who
16 takes a digitalis-type product?
17 A. A couple of my patients do. They have
18 them listed as their medicines.
19 Q. Okay. Do either of them take Digitek?
20 A. One does.
21 Q. Okay. Still?
22 A. I understand, yes.
23 Q. Okay. And the other one, do you know
24 what she takes?
25 A. No, I don't remember.

23 (Pages 89 to 92)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 93

1 Q. Okay. So you don't know if it's Lanoxin
2 or something else?
3 A. I do not.
4 Q. Okay. Have you ever known anybody
5 besides yourself and this one other patient that you
6 just told me about who has taken Digitek?
7 A. There were several of my patients that
8 had taken Digitek, and when I reviewed their
9 medications and I asked, "Are you still on Digitek,"
10 they said, no, that they had been switched to -- and
11 don't ask me what they had been switched to, but
12 they had switched to something else.
13 Q. Was this after the recall letter?
14 A. Yes.
15 Q. We'll just call it the recall letter.
16 A. Yeah.
17 Q. So you pointed it out to them?
18 A. No -- well, I was just going over their
19 medicine. I ask them each time they come in, "Are
20 you still on your -- are you still on this? Are you
21 still on that?"
22 Q. Okay. Basically you're going through
23 the medicine just confirming, "Are you still taking
24 this or not?"
25 A. Correct.

Page 94

1 Q. Okay. Before the patient that you --
2 let's back up.
3 The patients that you've told me about who at
4 one point in time were taking Digitek, did any of
5 them ever report to you that they were having any
6 side effects?
7 A. No.
8 Q. And since you got the recall letter,
9 there's just one patient who is still taking
10 Digitek?
11 A. That I know of.
12 Q. That you know of?
13 A. Yes.
14 Q. Do you know anybody else: friends,
15 family, relatives?
16 A. No, nobody.
17 Q. Not the grocer, anybody?
18 A. Nobody.
19 Q. Okay. The lady who, as far as you know,
20 is still taking Digitek, has she told you she's had
21 any side effects from that?
22 A. No.
23 Q. Have you asked?
24 A. No.
25 Q. Do you know if any of your doctors ever

Page 95

1 did a blood test and determined that you had toxic
2 levels of a digoxin/Digitek substance in your blood?
3 A. I do not know.
4 Q. Do you know if they took a blood test
5 that would show that one way or the other?
6 A. I don't know.
7 Q. Did any of your doctors ever say you had
8 digoxin toxicity?
9 A. Not according to blood tests; by
10 symptoms, yes.
11 Q. By symptoms.
12 Okay. Did they use that phrase?
13 A. Yes.
14 Q. And who would that have been?
15 A. Dr. Mathew.
16 Q. Okay. Anybody else?
17 A. No.
18 Q. When you -- I'm not sure how this works
19 when you get pharmaceuticals through the mail, but
20 when you were prescribed Digitek by your doctor
21 beginning in February of '06, did you sign any kind
22 of a consent form, indicating "I understand the
23 risks of this, and I'm okay with taking this
24 medication" --
25 A. No.

Page 96

1 Q. -- anything like that?
2 A. No.
3 Q. Okay. Did you ever get any samples of
4 Digitek?
5 A. No.
6 Q. How about Lanoxin? Did you get samples?
7 A. No.
8 Q. The only time you had that really was in
9 the hospital?
10 A. Correct.
11 Q. And the Lanoxin that you got from
12 Caremark after the recall letter, where are those
13 tablets?
14 A. I don't have them anymore since he took
15 me off of them.
16 Q. Do you believe you discarded those?
17 A. Yes.
18 Q. Was that another 90-day supply?
19 A. I believe it was.
20 Q. Okay. Did you look at those tablets to
21 see if they looked any different from the Digitek,
22 by any chance?
23 A. No, I didn't even take them out and look
24 at them because he had already told me to stop it.
25 So...

24 (Pages 93 to 96)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 97

1 Q. Do you know anybody who was taking
2 Digitek and actually sent their unused tablets back
3 for a refund?
4 A. No.
5 Q. Okay. And your recollection is you
6 never received a directive to return anything for a
7 refund; is that right?
8 A. Not that I recall, right.
9 Q. When you first started taking Digitek in
10 '06, were there symptoms you discussed with your
11 doctor, where if you started to experience those,
12 you were supposed to call him and tell him? Do you
13 remember any discussion like that?
14 A. No.
15 Q. Does that mean you didn't have that
16 discussion or you may not remember?
17 A. I don't recall that we had that
18 discussion. The main discussion was, "If you start
19 having any chest pain, you let me know."
20 Q. Not shortness of breath, not fatigue?
21 A. Fatigue, yes, shortness of breath.
22 There's a million things that can cause both of
23 those.
24 Q. Sure.
25 You went on that Actavis website --

Page 98

1 A. Uh-huh.
2 Q. -- to see what they had to say.
3 Did you ever try to contact those folks in any
4 way?
5 A. No.
6 Q. What about any other drug company? Did
7 you try to contact anybody else in that business to
8 talk to them about the lawsuit --
9 A. No.
10 Q. -- or this drug?
11 A. No.
12 Q. Are you making a claim in this case for
13 emotional distress?
14 A. Yes. It was probably the most traumatic
15 thing that's happened to me and to my family.
16 Q. Okay.
17 A. It changed my whole life actually. I --
18 the thing that sticks in my mind, is I usually would
19 get -- well, I always got a reserved seat to the
20 Broadway plays in Owensboro, and I did not do that
21 when they could not fix my heart, and I didn't want
22 to waste the money.
23 Q. Okay.
24 A. My husband would reach over in the night
25 just to be sure I was breathing. That was the most

Page 99

1 difficult part.
2 Q. All right. So for that period of time,
3 when you were feeling badly and not understanding --
4 A. What was going on.
5 Q. -- what was going on, you were anxious?
6 A. Very --
7 Q. Okay. All right. Did you take --
8 A. -- concerned.
9 Q. Was there anything that you did
10 differently with regard to medication or therapy or
11 maybe yoga or anything at all that you did that sort
12 of calmed that down?
13 A. Well, pray, I did a lot of that.
14 Q. All right.
15 A. I did a lot of thinking. What do I --
16 about my family mainly, but I would have to watch
17 that because that would make me more anxious too --
18 but trying to put things in perspective. "Okay.
19 Where are you going to go from here," a lot of
20 self-talk.
21 Q. Okay. Since the symptoms have
22 disappeared, which was in May of '08, you're back to
23 where you were before?
24 A. Sort of.
25 Q. Okay. What is not back to where it was?

Page 100

1 A. Well, you don't go through something
2 like that that it doesn't change your outlook on
3 life. I'm not nearly as trusting of my generics
4 that I was. Truly, I'm not, although I was always
5 encouraging to my patients, and I guess the positive
6 thing I got out of it is at least I put my
7 priorities where they need to be.
8 Q. Yeah, things like this do that for you,
9 don't they?
10 A. They do. And I always like to get
11 something good out of it. So I got that one. But
12 what I saw my family go through, that was the
13 hardest part.
14 Q. Did any of them have to go seek
15 counseling or anything like that because of this?
16 A. No, they were just so relieved when it
17 got better.
18 Q. Your husband doesn't have a loss of
19 consortium claim in this case, does he?
20 A. No.
21 Q. Have you and he discussed that?
22 A. No.
23 Q. Are you intending to seek monetary
24 damages for that?
25 A. For...

25 (Pages 97 to 100)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 101

1 Q. Anxiety, fear.
2 A. The fear?
3 Q. Right.
4 A. Yes. Nobody should have to go through
5 that.
6 Q. Okay.
7 A. In fact, that's the reason why -- I've
8 never sued anybody in my life, nor do I intend to do
9 so in the future. But afterwards, I started
10 thinking about what went on and what happened to me
11 and how I felt, and I knew there had to be other
12 people, and nobody should have to go through that.
13 Nobody should have to go through that.
14 Q. Okay. Do you have an idea in your mind
15 at this point as to what that was -- what's that
16 worth?
17 A. I don't have a clue.
18 Q. Okay. All right. Was there any
19 suggestion by Dr. Mathew that any of those symptoms,
20 the increased fatigue, sleepiness, shortness of
21 breath, irregular heart rhythm, dizziness,
22 light-headedness, that any of that might have been
23 caused by something else?
24 A. No.
25 Q. Did you notice any difference in those

Page 102

1 symptoms -- other than we've already discussed that
2 they seemed to get worse in February of '08, did you
3 notice any real difference in those symptoms that
4 coincided with a new prescription of 90 pills of
5 Digitek?
6 A. I didn't connect those. I mean, I
7 didn't think about that.
8 Q. Do you know if there was any connection?
9 A. I know that I got a new prescription
10 somewhere in October/November, and my symptoms
11 started then. I know I got another prescription
12 later on -- I'm guessing at that -- and I started
13 having more symptoms. And when I stopped taking the
14 medication, symptoms went away.
15 Q. Okay. Did any of your doctors suggest
16 any tests at all to rule out any other potential
17 causes for those symptoms?
18 A. My -- as I stated, Dr. Johnson did
19 thyroid -- make sure the thyroid isn't too low, iron
20 levels. He did several things, the usual things you
21 would do with somebody with fatigue.
22 Q. Your understanding was that all of those
23 tests were negative as a cause?
24 A. Only a slight decrease in iron level,
25 which he supplemented, but it didn't work.

Page 103

1 Q. It didn't work, and that all took place
2 before May of '08?
3 A. Correct.
4 Q. Do you now have to limit your daily
5 activities at all because of -- in your mind because
6 of having taken Digitek?
7 A. No.
8 Q. Okay. All of that kind of ended as soon
9 as you stopped taking that medicine?
10 A. Correct.
11 Q. Okay. Has anybody suggested to you that
12 you're going to have any effects in the future in
13 your health from having taken that Digitek?
14 A. No.
15 Q. Okay. Anybody told you that they have
16 to do any kind of medical monitoring to make sure
17 you're not continuing to suffer some effects of the
18 Digitek?
19 A. No.
20 Q. Okay. Now, we're here and there's a
21 lawsuit that is filed, and you're named as a class
22 representative, one of them, in that lawsuit.
23 Do you understand that?
24 A. Yes.
25 Q. We marked these backwards, but this is

Page 104

1 Exhibit 1, and this is -- I would like to ask you,
2 do you recognize that?
3 A. I believe I've seen this through either
4 my -- my local lawyer or through Mr. Jones.
5 Q. Okay. And your local lawyer is who?
6 A. Chris Rhoads in Owensboro.
7 Q. Okay. Now, did you see this document,
8 the complaint, before it was filed or after it was
9 filed?
10 A. I mean, I don't know. I don't remember.
11 Q. Okay. The file date, I think, is
12 stamped on the front of it.
13 A. March 5th, '09. I don't remember
14 whether I saw it or not before that date.
15 Q. When is the first time --
16 A. I can't remember.
17 Q. When you saw it for the first time,
18 whether it -- well, when you saw it for the first
19 time, did you have an opportunity to make any
20 revisions to it?
21 A. No.
22 Q. Was it your understanding it was already
23 done and it was going to get filed or had already
24 been filed?
25 A. Correct.

26 (Pages 101 to 104)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 105

1 Q. Okay. Have you ever read through that
2 document page by page?
3 A. No.
4 Q. Okay.
5 A. I have looked through some of it, but
6 not all of it.
7 Q. Okay. How is it that -- well, let me
8 back up.
9 What do you understand the goal of this lawsuit
10 is?
11 A. My understanding of it would be that
12 those people who were affected one way or another
13 are represented and get their voice heard on what
14 happened to them.
15 Q. And those people who are represented are
16 located where?
17 A. In different districts, I understand,
18 this being Kentucky.
19 Q. Okay. Do you know any of the people?
20 A. Do I know any of these people?
21 Q. Well, on the first page --
22 A. Yes.
23 Q. -- the plaintiffs are identified.
24 Do you know any of them?
25 A. Yes, I do.

Page 106

1 Q. Who do you know?
2 A. I knew Mr. Loney.
3 Q. Okay.
4 A. And I know Mr. Richardson.
5 Q. And how do you know Mr. Richardson?
6 A. I worked with Mr. Richardson, and I also
7 worked with and knew Mr. Loney.
8 Q. Okay. And Mr. Loney, you're saying in
9 the past tense. Did he pass away?
10 A. Yes, he has.
11 Q. When did he pass away?
12 A. I do not remember the date. I believe
13 it was last year.
14 Q. Do you know what he died of?
15 A. No.
16 Q. Do you know if his death had anything to
17 do with Digitek?
18 A. He's named here. That's all I know.
19 Q. Do you know?
20 A. No, I do not.
21 Q. How did you know both of these
22 gentlemen?
23 A. I worked -- actually, I was supervisor
24 for Mr. Richardson for a while. Mr. Loney was a
25 volunteer on our unit, and I met him several times

Page 107

1 in the community and otherwise.
2 Q. And so you supervised Mr. Richardson,
3 and what was his job?
4 A. He was a substance abuse counselor.
5 Q. Okay. At the hospital?
6 A. Correct.
7 Q. And does he still work there?
8 A. No.
9 Q. Is he retired?
10 A. No. He -- the counseling unit was
11 eliminated, and he moved to another position in the
12 community.
13 Q. So he's also a resident of Indiana?
14 A. Kentucky.
15 Q. Kentucky. Okay.
16 A. Where I work is in Kentucky.
17 Q. I see. I see.
18 Okay. So he's got himself another job?
19 A. Correct.
20 Q. And health-wise, do you know how he's
21 doing?
22 A. Who?
23 Q. Richardson.
24 A. I don't know. He's not the one that
25 took Digitek.

Page 108

1 Q. Okay.
2 A. Mr. Loney did.
3 Q. Let me look at that real quick if you
4 don't mind.
5 Oh, I see. You're talking about Harold
6 Richardson?
7 A. Correct.
8 Q. And he's an executor of Mr. Loney's
9 estate?
10 A. Evidently, yes.
11 Q. So Richardson never took Digitek, but
12 Mr. Loney did?
13 A. That's the way I understand it, yes.
14 Q. Do you know for a fact if Mr. Loney ever
15 took Digitek?
16 A. No, I do not.
17 Q. Okay.
18 A. I haven't seen Mr. Loney or
19 Mr. Richardson for several years.
20 Q. Okay. Did you -- before you saw the
21 complaint, whenever that was for the first time, did
22 you know that they were also involved?
23 A. No.
24 Q. Once you saw their names on the
25 complaint, whenever that was, did you attempt to

27 (Pages 105 to 108)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 109

1 contact at least Mr. Richardson?
 2 A. No.
 3 Q. And the other co-executor for
 4 Mr. Loney --
 5 A. Carla York.
 6 Q. -- do you know her?
 7 A. No.
 8 Q. Do you know -- okay.
 9 A. That's Mr. Richardson stepsister, I
 10 believe, but I don't know her.
 11 Q. Okay. Okay. So other than knowing
 12 Mr. Richardson and having known Mr. Loney, both
 13 through work, do you know any of the other named
 14 people here?
 15 A. No.
 16 Q. Okay. Do you know any of the other
 17 people who are potentially going to be in the
 18 class --
 19 A. No.
 20 Q. -- of people in this case if the class
 21 gets certified?
 22 A. No.
 23 Q. Have you ever made any effort to see who
 24 else might be suitable for inclusion in this class?
 25 A. No.

Page 110

1 Q. And what is the scope of the damages
 2 that you're going to seek to recover for the class
 3 in this case?
 4 A. Ask me that again.
 5 Q. Yeah. What kinds of damages are you, as
 6 a representative, or one of the representatives,
 7 going to seek to recover for the class members?
 8 A. There has to be some economic,
 9 emotional, or physical -- even though I'm not
 10 involved with that, but that's what I understand,
 11 you know, whatever is deemed to be appropriate.
 12 Q. Okay. But I'm trying to understand what
 13 exact type of damages are you going to try to
 14 recover for the members of the class?
 15 A. Me personally?
 16 Q. You personally because you're a class
 17 rep.
 18 A. Certainly the out-of-pocket expense, and
 19 certainly I can speak to the emotional piece of it,
 20 although I didn't have a loved one die.
 21 Q. Okay. So you're intending to recover
 22 for the class members what we'll call economic
 23 damages and emotional damages?
 24 A. Those are the ones that I can speak to,
 25 yes.

Page 111

1 Q. Can you speak to physical damages for
 2 the class members?
 3 A. I don't -- I don't know all the class
 4 members. I can only give my opinion on what
 5 happened with me.
 6 Q. And what economic damages do Ms. York
 7 and Mr. Richardson have?
 8 A. The loss of their father, at least from
 9 that standpoint. If they had money that they had to
 10 pay out for burial, I'm sure that was part of it.
 11 Q. Do you know what damage --
 12 A. No.
 13 Q. Do you know what -- let's back up.
 14 Do you know what damages they are thinking they
 15 would want to recover in this lawsuit?
 16 A. I've not talked with them, and so I
 17 don't have any idea.
 18 Q. Okay. Do you know if they are intending
 19 just to pursue economic damages, meaning
 20 out-of-pocket monetary, or a wrongful death case?
 21 A. That I do not know because I haven't
 22 talked with them.
 23 Q. Okay. How is it that you became
 24 involved in this case as a class representative?
 25 A. I was asked by Mr. Jones.

Page 112

1 Q. And when did he ask you that?
 2 A. I don't know exactly when it was. It's
 3 been several months ago. I can't remember.
 4 Q. Okay. What is your understanding of
 5 your responsibilities as a class representative?
 6 A. To present information as truthfully as
 7 possible. I understand there's some notification of
 8 the other people -- other members in the class, that
 9 I'll need to be able to do that.
 10 Q. Okay. The notification of what?
 11 A. Probably just about anything: how it's
 12 progressing, if it's been settled. I'm going to
 13 depend on Mr. Jones to help me with that.
 14 Q. Okay. So he'll give you direction as to
 15 what you need to notify these folks of?
 16 A. What I need to do, yes.
 17 Q. You've never been involved in anything
 18 like this before?
 19 A. No.
 20 Q. Have you done any research on what a
 21 class representative's -- what their duties are --
 22 A. No.
 23 Q. -- legally what their duties are?
 24 A. No.
 25 Q. Do you know if the class representative

28 (Pages 109 to 112)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 113	Page 115
<p>1 may be obligated to spend some of their own money in 2 connection with a class action? 3 A. I vaguely know that, yes. 4 Q. What do you know about that? 5 A. Well, if it's without merit or whatever 6 some basis, then I'm certain that that could happen, 7 yes. 8 Q. But what is it you understand could 9 happen in that event? 10 A. That I would have to pay damages or 11 legal fees, that sort of thing. 12 Q. Are you prepared to do that? 13 A. Certainly I don't want to do that, but I 14 wouldn't have agreed to do this if I didn't think 15 this had merit. 16 Q. And do you have any idea in your mind as 17 to what legal fees or other damages you personally 18 might have to be responsible for as a class rep? 19 A. No, but I'm sure they wouldn't be small. 20 That's all I would know. 21 Q. Okay. And you have the financial 22 wherewithal to do that? 23 MR. JONES: Objection to the form of the 24 question. I don't think that that's a proper 25 question to talk about whether she has the financial</p>	<p>1 their clients in here have been talked to, and I 2 don't know what the basis for selecting me was. 3 Q. Okay. Some of the folks on there who 4 are listed are not going to be class reps after all. 5 Do you have any understanding of how that came 6 about? 7 A. No. 8 Q. And do you know a Ms. Whitaker? 9 A. No. 10 Q. Did you know Ms. Fight? 11 A. No. 12 Q. Were you promised anything if you would 13 be a class representative? 14 A. No. 15 Q. If you have a claim -- for example, 16 you've got a claim for emotional distress, and there 17 may be other members of the group that might 18 potentially end up to be the class who don't have 19 emotional distress claims. 20 Do you have any understanding as to whether 21 your pursuit of that kind of a claim affects their 22 claim in any way? 23 A. No. 24 Q. Okay. What about a class member like 25 potentially Mr. Richardson or Ms. York --</p>
Page 114	Page 116
<p>1 wherewithal to pay any sort of hypothetical award 2 from the court. 3 I mean, I've allowed you to go on a little bit 4 with the scare tactic questions, but we're not going 5 to delve into her personal finances, and we can 6 address with Judge Stanley on that. 7 MS. CRISWELL: It's not scare tactics. 8 It's a legitimate question of a class representative 9 to find out if they -- 10 MR. JONES: She's answered it. 11 MS. CRISWELL: Let me finish -- to find 12 out if they really understand what their obligations 13 are. 14 MR. JONES: She has answered that she 15 understands. 16 MS. CRISWELL: Okay. 17 THE WITNESS: I do. 18 BY MS. CRISWELL: 19 Q. And you're prepared to take on that 20 responsibility? 21 A. I do. 22 Q. Okay. Were you -- do you know how it 23 was that you were selected to be invited to be a 24 class representative in this lawsuit? 25 A. Not specifics. I know that several of</p>	<p>1 A. Uh-huh. 2 Q. -- whose father died and presumably -- 3 well, I don't know presumably. It's assumed they 4 would ask for the damages of the death of Mr. Loney. 5 You don't have a wrongful death claim, right? 6 A. Correct. 7 Q. Would you be comfortable with being a 8 class rep for a class in which some members may have 9 a wrongful death claim that you wouldn't -- you 10 wouldn't have any personal experience with? 11 A. That's because I'm still alive, thank 12 God. 13 Q. Yeah, but are you comfortable with that? 14 A. Yes, because death is -- there is an 15 emotional overload that goes along with that. It's 16 grief. It's dying. It's a loss. Luckily for most 17 of these people, we didn't die, but that doesn't 18 mean that we should have or could have -- couldn't 19 have. And, yeah, I can understand their wrongful 20 death. I can understand that. 21 Q. Have you ever been involved in a 22 wrongful death -- 23 A. No. 24 Q. -- case? 25 Have you ever filed or pursued any kind of a</p>

29 (Pages 113 to 116)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 117

1 claim for the wrongful death of someone?
 2 A. No.
 3 Q. Anybody in your family done that?
 4 A. No.
 5 Q. And as you sit here today, you don't
 6 know what any of the other members of the class
 7 or -- or the individual people who are listed along
 8 with yourself what they might be thinking they would
 9 like to gain by this lawsuit or accomplish by this
 10 lawsuit?
 11 A. No, I do not. I've not spoken to any of
 12 them.
 13 Q. Do you have any plans to speak with any
 14 of them?
 15 A. No.
 16 Q. Your out-of-pocket -- we talked about
 17 there was a deductible for the hospital. There was
 18 a co-pay for Dr. Mathew for a visit, three weeks
 19 lost earnings.
 20 Any other out-of-pocket expenses that you
 21 believe you suffered?
 22 A. Well, I had several prescriptions for
 23 Digitek that I really shouldn't have had. That
 24 wasn't very much. I think that was \$7.39. Thank
 25 goodness for that -- but, you know, anything my

Page 118

1 insurance didn't pay, but luckily we have good
 2 insurance.
 3 Q. And the Digitek that you were taking
 4 that you now think you shouldn't have been taking,
 5 if you hadn't been taking that, the prescription
 6 might have been Lanoxin, right?
 7 A. Right.
 8 Q. Which would have been the same co-pay?
 9 A. Probably, yes.
 10 Q. Was there an ambulance ride to the
 11 hospital?
 12 A. Correct.
 13 Q. Were you charged for that, or did your
 14 insurance cover that?
 15 A. I think our insurance covered most of
 16 it. I would have to go back and look. I don't
 17 know.
 18 Q. Okay. Did your lawyer send you to any
 19 doctors?
 20 A. No.
 21 Q. And if we wanted to talk to the two
 22 doctors -- well, if we wanted to talk to your
 23 doctors who would know the most about your physical
 24 health and the particular medications that you were
 25 taking and your heart condition, that would be

Page 119

1 Dr. Johnson and Dr. Mathew?
 2 A. Yes.
 3 Q. Okay. Anybody else?
 4 A. Those would be the ones primarily
 5 involved with this part.
 6 MS. CRISWELL: Okay. I tell you what,
 7 for right now I think I've asked all the questions I
 8 can imagine. I'm going to go back through my notes.
 9 Holly, would you like to jump in at this point?
 10 MS. SMITH: Sure.
 11
 12 EXAMINATION
 13
 14 BY MS. SMITH:
 15 Q. Ms. Ard, again, my name is Holly Smith,
 16 and I'm representing the Mylan defendants in this
 17 case. And I'm sorry that I'm appearing by
 18 telephone. I know that sometimes makes it a little
 19 bit more difficult to hear my questions. So feel
 20 free to let me know if something didn't come across
 21 completely or if you have any questions. All right?
 22 A. All right.
 23 Q. As a nurse practitioner, you're able to
 24 prescribe medication; is that correct?
 25 A. That's correct.

Page 120

1 Q. Do you ever or have you ever weighed and
 2 measured medications?
 3 A. No.
 4 Q. And I may jump around a little bit just
 5 given that I'm going off of notes that I took from
 6 Leslie's questioning.
 7 I believe you testified that there are three
 8 90-day prescriptions for Digitek that are the focus
 9 of your case.
 10 Would that be correct?
 11 A. I believe so. I got -- according to
 12 dates, that's probably right.
 13 Q. So to the extent you had been prescribed
 14 Digitek prior to November of 2007, that's not -- or
 15 2006 -- excuse me -- that's not part of your case
 16 now; is that correct?
 17 MS. CRISWELL: No, it is 2007, I think.
 18 MS. SMITH: Oh, you're right.
 19 THE WITNESS: Yeah.
 20 BY MS. SMITH:
 21 Q. So to the extent you were prescribed
 22 Digitek before November of 2007, are you suing in
 23 relation to those prescriptions?
 24 A. Prior to -- to November of 2007 or
 25 October, whichever it was, no.

30 (Pages 117 to 120)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 121	Page 123
<p>1 Q. When you went on the websites for the 2 FDA and for Actavis and read about the medications, 3 I believe you said that you read that the tablets 4 were twice as thick; is that correct? 5 A. Yes, that's what the -- the information 6 that was on the website, that's what they had 7 described. 8 Q. Did those websites say whether 9 100 percent of those tablets had been double thick 10 or some of them had been or in any way quantify the 11 number of tablets that had been found that were 12 double thick? 13 A. I don't know exactly, but I understood 14 that there were just some that were. 15 Q. And you believe that all of the Digitek 16 that you took from those prescriptions were double 17 thick or just some of them? 18 A. Based -- I can only base it on my 19 symptoms, and I would say that there was too much 20 digitalis or digoxin in those tablets from October 21 to May. 22 Q. And maybe not double thick, but too 23 much; is that what you're saying? 24 A. That's right. 25 Q. And would that be for each and every</p>	<p>1 for bearing with me over the phone. 2 3 EXAMINATION 4 5 BY MS. CRISWELL: 6 Q. So I just have a few more. There's 7 always a few more. 8 Any of those three prescriptions of Digitek 9 that we've been talking about, did you show those 10 tablets to anyone? 11 A. No. 12 Q. Okay. Did you show them to your 13 husband, for example? 14 A. No. 15 Q. Or your daughters? 16 A. No. 17 Q. Did anybody ask to see them? 18 A. No. 19 Q. All right. At some point in your life, 20 you were on Vioxx -- 21 A. Right. 22 Q. -- right? 23 Was that taken off the market? 24 A. Yes. 25 Q. Did you have any side effects from that?</p>
Page 122	Page 124
<p>1 tablet, or do you think some of those tablets were 2 fine and others of them had too much? 3 A. I can't speak to that. I don't know. 4 Q. You mentioned that you have a patient 5 who you believe is still taking Digitek. 6 Have you talked to her about the fact that 7 you're bringing a lawsuit about Digitek? 8 A. No. 9 Q. Do you understand that -- and this is a 10 question. Do you know whether she would be a 11 proposed class member in the class that you are 12 requesting? 13 A. No, she's -- she never gave me any 14 indication she was having any problems whatsoever. 15 Q. Is your lawsuit, then, in your 16 understanding, limited to people who had problems 17 with Digitek or anybody that took Digitek? 18 A. Only people who had problems with it. 19 Q. So to the extent a person took Digitek 20 but didn't experience any type of physical symptom, 21 then they would not be a member of your proposed 22 class as you understand it? 23 A. As I understand it. 24 MS. SMITH: I think those are all the 25 questions I have for you today. Again, thank you</p>	<p>1 A. No. 2 Q. What about Zelnorm? Did you take that? 3 A. I did take that. 4 Q. Do you still take that? 5 A. No. 6 Q. Was that taken off the market? 7 A. Yes. 8 Q. Did you have any side effects from that? 9 A. No. 10 Q. You take a drug called Pacerone? 11 A. Pacerone. 12 Q. Pacerone? 13 A. Yes. 14 Q. And what is that for? 15 A. It is a medication used to control heart 16 rhythm -- keep it at a normal rhythm. 17 Q. And how long have you been taking 18 Pacerone? 19 A. I am not taking Pacerone anymore. 20 Q. When was the last time? 21 A. Probably April of '06 -- March or April 22 '06, March. 23 Q. And were you taken off of that by a 24 doctor? 25 A. Yes.</p>

31 (Pages 121 to 124)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 125	Page 127
<p>1 Q. And which doctor?</p> <p>2 A. Dr. Khanna, who is the cardiac surgeon.</p> <p>3 Q. Okay. So this was after your open heart</p> <p>4 surgery?</p> <p>5 A. Correct.</p> <p>6 Q. And did he tell you why he was taking</p> <p>7 you off that?</p> <p>8 A. Yes, I was having side effects from it.</p> <p>9 Q. Which were what?</p> <p>10 A. Nausea and vomiting. Those are common</p> <p>11 side effects for that medication.</p> <p>12 Q. How do you spell his last name?</p> <p>13 A. K-H-A-N-N-A.</p> <p>14 Q. How long prior to that were you taking</p> <p>15 Pacerone?</p> <p>16 A. Only after surgery.</p> <p>17 Q. So it was just that limited time?</p> <p>18 A. Correct.</p> <p>19 Q. I was just looking through something</p> <p>20 here that, you know, kind of talks about your</p> <p>21 medical records. There was, on February 22 of '08,</p> <p>22 apparently a blood test done to see what your</p> <p>23 digoxin level was, and it appears that it was at</p> <p>24 what's called a subtherapeutic level.</p> <p>25 Do you know what subtherapeutic level means?</p>	<p>1 Q. Okay. And did Dr. Johnson ever</p> <p>2 prescribe Digitek or any digitalis medication?</p> <p>3 A. I don't think so.</p> <p>4 Q. Did Dr. Caraco ever?</p> <p>5 A. Not that I'm aware of.</p> <p>6 Q. It was only ever Dr. Mathew?</p> <p>7 A. Correct.</p> <p>8 Q. Bear with me just a minute here.</p> <p>9 Did you have, during this 2006 to 2008 time</p> <p>10 frame, any fluctuations in your weight other than a</p> <p>11 couple pounds here and there?</p> <p>12 A. Yes, I did when I was on the Pacerone.</p> <p>13 Q. Because of the nausea?</p> <p>14 A. Because of the nausea and vomiting.</p> <p>15 Q. Okay. So that would have been February,</p> <p>16 March, April, or thereabouts of '06?</p> <p>17 A. Right.</p> <p>18 Q. And after that, the weight stabilized</p> <p>19 after that?</p> <p>20 A. Yes. Other than a couple of pounds up</p> <p>21 or down, it's been stable since.</p> <p>22 Q. I'm not -- I admit to you I'm not</p> <p>23 sitting here looking at your actual medical records</p> <p>24 because there were a good number of those, and I</p> <p>25 don't have those with me.</p>
Page 126	Page 128
<p>1 A. Yes.</p> <p>2 Q. What does that mean?</p> <p>3 A. That means it's not up to the limit</p> <p>4 required to be effective.</p> <p>5 Q. Meaning what?</p> <p>6 A. Meaning either I missed a dose or it was</p> <p>7 withheld, and the level will begin to drop pretty</p> <p>8 quickly.</p> <p>9 Q. Okay. Because it has a pretty short --</p> <p>10 A. Yes.</p> <p>11 Q. -- half-life?</p> <p>12 A. That's the reason it has to be taken</p> <p>13 every day.</p> <p>14 Q. Did you keep any record of any days</p> <p>15 where you may have forgotten to take Digitek?</p> <p>16 A. No, there was so few. I was pretty good</p> <p>17 about that.</p> <p>18 Q. You were really pretty regular about</p> <p>19 that?</p> <p>20 A. I have always been regular with that.</p> <p>21 Q. What is Caraco, C-A-R-A-C-O? Does that</p> <p>22 sound familiar?</p> <p>23 A. Yes. That's Dr. Caraco.</p> <p>24 Q. Who is he?</p> <p>25 A. He was an associate of Dr. Johnson.</p>	<p>1 But I have an indication here that in December</p> <p>2 of '06, you were advised by Dr. Mathew to continue</p> <p>3 using all your regular medications except Coumadin.</p> <p>4 A. Correct.</p> <p>5 Q. And one of the medications in the</p> <p>6 doctor -- this is Dr. Mathew's chart/office note, is</p> <p>7 that you were to continue taking Lanoxin?</p> <p>8 A. Correct.</p> <p>9 Q. So you had told me earlier that from</p> <p>10 February of '06 until May of '08, except for that</p> <p>11 few days in the hospital, you were taking Digitek?</p> <p>12 A. Correct.</p> <p>13 Q. Does this refresh your recollection that</p> <p>14 in fact you were taking Lanoxin?</p> <p>15 A. Dr. Mathew's prescriptions always were</p> <p>16 written for Lanoxin.</p> <p>17 Q. They were?</p> <p>18 A. Yes.</p> <p>19 Q. Okay.</p> <p>20 A. And sent to Caremark. Caremark</p> <p>21 substituted it with Digitek.</p> <p>22 Q. Oh. At what point did you recognize</p> <p>23 that Dr. Mathew's prescription, the actual</p> <p>24 prescription, said, "Lanoxin 0.25" and that Caremark</p> <p>25 would send you Digitek?</p>

32 (Pages 125 to 128)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 129

1 A. Early on.
 2 Q. And did you say anything to him about
 3 that?
 4 A. He was aware of it, because when I went
 5 to see him the next time, they were asking me what
 6 medications I was on, and I would say, "Digitek."
 7 Q. Okay. So did you have more than one
 8 conversation with him over the course of time about
 9 "Hey, you're prescribing Lanoxin, and they're
 10 sending me Digitek"?
 11 A. No.
 12 Q. Just one time?
 13 A. Well, it wasn't just him. It was
 14 discussion on what the medications were. I gave him
 15 the list, and it was Digitek, not Lanoxin, and it
 16 was in my chart thereafter that it was Digitek, but
 17 he always would write a prescription for Lanoxin.
 18 Q. Okay. So he would write Lanoxin, but in
 19 his chart, you would expect it to say, "Digitek"?
 20 A. I would expect it to unless it wasn't
 21 changed.
 22 Q. Unless...
 23 A. Unless they just didn't change it, but,
 24 yes, I would expect it to be that way.
 25 Q. Who would you have told that "Hey, I'm

Page 130

1 not taking Lanoxin. I'm taking Digitek"?
 2 A. Dr. Mathew's nurse.
 3 Q. Has that always been the same person?
 4 A. No.
 5 Q. There's a woman's name in here,
 6 Christina House.
 7 A. She's a PA, I believe.
 8 Q. And she's a physician's assistant?
 9 A. Correct.
 10 Q. Her office note of February 19 or
 11 February 21 of '08, right in the time where you said
 12 your symptoms were much worse, says that one of the
 13 medications that you are taking is Lanoxin, 0.25 MG
 14 daily.
 15 Were you taking Lanoxin?
 16 A. I was taking Digitek.
 17 Q. You're sure?
 18 A. Yes.
 19 Q. Okay. And you're confident that your
 20 paperwork from Caremark identifies it as Digitek,
 21 not Lanoxin?
 22 A. Correct.
 23 Q. And you're confident that you would have
 24 sought to correct your doctor's records each time
 25 you went in and compared notes about medications,

Page 131

1 that would you have told them, "It's not Lanoxin.
 2 It's Digitek"?
 3 A. Correct.
 4 Q. And you've got the Caremark records
 5 which confirm the name Digitek?
 6 A. I believe we do.
 7 Q. All right. Do you know if those have
 8 been handed to your lawyer?
 9 A. Yes, I understand they have.
 10 Q. Did you do that, physically hand them
 11 over?
 12 A. I can't remember. I can't remember.
 13 MS. CRISWELL: Okay. And then, Counsel,
 14 again, I just would like if you've got something
 15 that shows the name Digitek...
 16 MR. JONES: You guys have been provided
 17 with the Caremark pharmacy records that just list
 18 Digitek over and over and over and over again.
 19 MS. CRISWELL: Okay. Even though the
 20 doctor's records say, "Lanoxin"?
 21 MR. JONES: Well, I guess the doctor
 22 wrote a prescription, and the pharmacist said,
 23 "We're paying for the generic." That's not
 24 uncommon.
 25 MS. CRISWELL: These aren't prescription

Page 132

1 records I'm talking about. These are chart notes
 2 and doctor's notes saying Lanoxin is what she's
 3 taking.
 4 MR. JONES: I have the bottle with the
 5 pills and the pharmacy records.
 6 MS. CRISWELL: Do you have that here?
 7 MR. JONES: No.
 8 MS. CRISWELL: No?
 9 MR. JONES: No.
 10 BY MS. CRISWELL:
 11 Q. Do you remember, Ms. Ard, contacting
 12 Dr. Mathew's or -- Dr. Mathew -- or Dr. Johnson's
 13 offices as soon as you started having the dizziness
 14 and the light-headedness?
 15 A. Close to that. I can't say exactly
 16 when, but certainly when I -- it was probably in
 17 February when it got really bad.
 18 Q. Uh-huh. I'm looking at a chart note
 19 here that supposedly says that on May 8 of '08, you
 20 indicated -- and I think this must be to
 21 Dr. Mathew's office that you had increased
 22 intermittent dizziness for the past few weeks.
 23 Does that sound right --
 24 A. Yes.
 25 Q. -- or do you recall that you had that in

33 (Pages 129 to 132)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 133

1 February, that dizziness?
 2 A. Oh, I had it in February. That's what
 3 prompted the cardiac cath, the trip to Louisville,
 4 the -- all the other testing.
 5 Q. Okay. So if it says, "for the past few
 6 weeks in May of '08," it really should have been for
 7 the past few months?
 8 A. No, it was worst for the last few weeks
 9 in May.
 10 Q. Okay. I got it.
 11 Do you know if somebody tried to -- somebody on
 12 your behalf tried to convince Dr. Mathew to help out
 13 in this case to provide medical expertise of some
 14 type?
 15 A. In what case? I'm sorry?
 16 Q. This case, this lawsuit.
 17 A. Oh, as far as I know, all that he did
 18 was to give a statement of him being my physician,
 19 and I don't know what he said.
 20 Q. Okay. Is there somebody named Becky who
 21 works in Mr. Rhoads's office?
 22 A. Maybe. I don't know.
 23 Q. Did you ever talk to Dr. Mathew about
 24 helping out in this lawsuit, either helping you or
 25 helping the class members out in this lawsuit?

Page 134

1 A. No. The only conversation we had was
 2 about my care.
 3 Q. And in February of '09, now we're many
 4 months after you stopped taking Digitek and you're
 5 back to normal physical -- none of those symptoms
 6 are continuing, I see an indication -- and, again,
 7 it looks like Dr. Mathew's -- Dr. Mathew's office of
 8 palpitations that you were having, chest discomfort,
 9 jaw pain, and one of the episodes lasted as long as
 10 20 minutes.
 11 A. Right.
 12 Q. What did your doctor tell you about what
 13 was causing that?
 14 A. That was -- I believe that's when he
 15 increased the Toprol to 37.5.
 16 Q. Okay. All right.
 17 A. So he changed my medications.
 18 Q. That was the only change, or were there
 19 other changes?
 20 A. No, that was the only one that I can
 21 recall.
 22 Q. Okay. Have you -- have you spoken with
 23 any of your family members about this litigation?
 24 A. My husband.
 25 Q. Yeah. And what did you and he talk

Page 135

1 about?
 2 A. Just -- just that it was happening and
 3 basically what we had been through and my rationale
 4 as to why I wanted to be part of it.
 5 Q. Okay. Did he have any disagreement with
 6 that?
 7 A. No.
 8 Q. Have you talked with your daughters
 9 about that at all?
 10 A. Just in generalities.
 11 Q. What does that mean?
 12 A. Just the fact that I was doing it, that
 13 I was coming to Louisville, things like that.
 14 Q. Okay. And what did they think about
 15 that?
 16 A. That was fine.
 17 Q. Have you ever had a stroke?
 18 A. No.
 19 Q. Okay. Do you have any blood clot
 20 problems?
 21 A. I have had a blood clot in my left leg
 22 two different times in my lifetime.
 23 Q. In the last 10 years?
 24 A. I don't believe so. I think it was
 25 longer than that.

Page 136

1 Q. Okay. Any renal dysfunction?
 2 A. I have kidney stones.
 3 Q. Kidney stones.
 4 Anything else that you characterize that way?
 5 A. Not renal problems, no. I was
 6 hospitalized with pyelonephritis in February, and
 7 that was secondary to a kidney stone.
 8 MS. CRISWELL: All right. I think I
 9 don't have anything further. Holly, do you?
 10 MS. SMITH: I'm actually looking at my
 11 notes and see that I wanted to ask about something
 12 earlier that I didn't catch. So if it's all right,
 13 I would like to ask that now.
 14 MS. CRISWELL: Sure.
 15
 16 EXAMINATION
 17
 18 BY MS. SMITH:
 19 Q. Ms. Ard, earlier you said that you
 20 became involved in this litigation when you were
 21 asked by Mr. Jones; is that correct?
 22 A. No. I contacted --
 23 Q. How did you become involved as a class
 24 rep in this case?
 25 A. Oh, as a class rep? Okay. That's a

34 (Pages 133 to 136)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 137

1 different thing.
 2 Q. Let me clarify that, or let me let you
 3 clarify that.
 4 When did you first approach Mr. Jones about an
 5 individual case for you and you only?
 6 A. I didn't. I spoke with my local lawyer,
 7 Chris Rhoads in Owensboro, Kentucky. I contacted
 8 his office just to investigate as to what might be
 9 done, and he started the process, and then it was
 10 handed over to Mr. Jones.
 11 Q. And at the time you approached -- or you
 12 asked Mr. Rhoads about a possible lawsuit, were you
 13 thinking for yourself only or were you thinking of
 14 filing a class action?
 15 A. I didn't know which one I would be
 16 doing. I had no idea. It was just purely asking
 17 questions.
 18 Q. And you reached out to him --
 19 A. Yes.
 20 Q. -- is that correct?
 21 And then at what point did you decide that you
 22 would pursue a class action as opposed to an
 23 individual case?
 24 A. I don't remember. I don't remember when
 25 that switched. I have no idea.

Page 138

1 Q. Why do you want to bring a class action
 2 as opposed to just an individual case?
 3 A. I don't know enough about the law to
 4 know which one is the most advantageous, and I had
 5 to leave that up to my lawyers to make that
 6 decision.
 7 MS. SMITH: All right. That's what I
 8 wanted to ask. Thank you.
 9 MR. JONES: I have a few questions if
 10 that's all right.
 11 MS. CRISWELL: Sure.
 12
 13 EXAMINATION
 14
 15 BY MR. JONES:
 16 Q. Lorena, I know that this has been a
 17 little confusing today trying to wear two hats.
 18 A. Right.
 19 Q. One is the class representative, and one
 20 is your individual -- for your individual claims; is
 21 that fair?
 22 A. Yes, that's fair.
 23 Q. Now, on the individual side, you're
 24 making claims for your personal injuries and your
 25 out-of-pocket expenses, right?

Page 139

1 A. Correct.
 2 Q. And then --
 3 MS. SMITH: Objection, leading.
 4 MS. CRISWELL: Yeah, it is.
 5 MR. JONES: That's fine.
 6 BY MR. JONES:
 7 Q. What kinds of claims are you making in
 8 your individual case?
 9 A. Mine personally and financial.
 10 Q. And then for the class, are you seeking
 11 just economic damages?
 12 MS. SMITH: Objection, leading.
 13 MS. CRISWELL: Join.
 14 BY MR. JONES:
 15 Q. That's okay. I'll just speak for the
 16 record. We've stipulated, and I think you
 17 understand this, we've stipulated that the class
 18 action is only for economic damages and not other
 19 people's personal injuries.
 20 A. That's what I understand, yes.
 21 Q. As part of those economic damages that
 22 you're seeking on behalf of the class, would unused
 23 prescriptions that were recalled, would that be part
 24 of the economic damages?
 25 A. I would say yes. If it's something that

Page 140

1 you purchased that you can't use anymore, yes.
 2 Q. Okay. And some of the people out there
 3 that are members of the class, is it possible that
 4 some of them would not have been physically injured
 5 by the recalled Digitek?
 6 MS. CRISWELL: Well, of course, that
 7 calls for complete speculation and lacks foundation
 8 since she doesn't know any of the members, which
 9 you've pointed out at length earlier today.
 10 MR. JONES: But you can answer.
 11 A. I understand that not everybody died,
 12 and there had to be symptoms or people -- so there's
 13 a wide variety of where people are.
 14 Q. Do you understand that -- she kind of
 15 interrupted on the question.
 16 Do you understand that part of the economic
 17 damages that you would be recovering on behalf of
 18 the class would include the cost of the prescription
 19 that they had filled but then couldn't use because
 20 of the recall?
 21 A. Right. For myself, I would expect that,
 22 yes.
 23 Q. Right, and on behalf of the class, would
 24 you expect that as well?
 25 A. Yes.

35 (Pages 137 to 140)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

<p style="text-align: right;">Page 141</p> <p>1 Q. And on behalf of the class, are you also 2 seeking the costs that individuals would have to 3 incur for things such as office visits and blood 4 work to get a change to a different form of digoxin, 5 for instance? 6 A. I'm sure that people have to be like me 7 in the fact that they've had those expenses, medical 8 doctors, follow-up, medication, medication changes, 9 and I would expect that, yeah. 10 Q. Okay. 11 A. If it's related to this, I would say 12 yes. I understand that. 13 MR. JONES: Okay. That's all the 14 questions I have. 15 16 EXAMINATION 17 18 BY MS. CRISWELL: 19 Q. Okay. Just a few then: Some of the 20 folks -- your belief as you sit here today, even 21 though you haven't talked to any of these folks -- 22 is that some of the folks who may be in the class 23 may have economic damage claims, right? 24 A. Yes. 25 Q. Some of them may not?</p>	<p style="text-align: right;">Page 143</p> <p>1 EXAMINATION 2 3 BY MR. JONES: 4 Q. I have one more question. 5 A. Uh-huh. 6 Q. Have any of the lawyers for these big 7 pharmaceutical companies provided you with a list of 8 the potential class members or users of their drug? 9 A. No. 10 Q. So would you have any way of knowing who 11 used their drug? 12 A. No. 13 Q. And you wouldn't know that until they 14 provided you with that information? 15 A. No. The only ones I would know are here 16 in this stack. 17 MR. JONES: I have no additional 18 questions. 19 20 21 EXAMINATION 22 23 BY MS. CRISWELL: 24 Q. Has your lawyer provided you with the 25 names of these potential members?</p>
<p style="text-align: right;">Page 142</p> <p>1 A. I can't imagine someone not, but, yes. 2 Q. Okay. Some of them may have bodily 3 injury claims? 4 A. Yes. 5 Q. Some may not? 6 A. Yes. 7 Q. Some may have claims for emotional 8 distress or anxiety? 9 A. Yes. 10 Q. And some may not? 11 A. Yes. 12 Q. And some may have claims for wrongful 13 death? 14 A. Correct. 15 Q. And some may not? 16 A. Correct. 17 Q. Okay. And you're comfortable with all 18 of those different patterns being in one lawsuit -- 19 A. Yes. 20 Q. -- for which the class is only claiming 21 economic damages? 22 A. Right. 23 MS. CRISWELL: Okay. 24 25</p>	<p style="text-align: right;">Page 144</p> <p>1 A. No. 2 Q. Have you asked anybody to provide you 3 with that information? 4 MR. JONES: No questions. 5 MS. CRISWELL: Holly, anything else? 6 MS. SMITH: Not on my end. 7 MS. CRISWELL: Okay. Can we just say, 8 "same stipulation" on this? 9 MR. JONES: As the last one, yeah. 10 MS. CRISWELL: Because we have the same 11 court reporter here. So would that be adequate for 12 you? Okay. Good. 13 MR. JONES: Thank you very much. 14 (CONCLUDED AT 3:21 P.M.) 15 16 17 18 19 20 21 22 23 24 25</p>

36 (Pages 141 to 144)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

Lorena Ard

Page 145

STATE OF KENTUCKY)
)SS: ERRATA
COUNTY OF JEFFERSON)

I HAVE READ THE FOREGOING PAGES, AND THE
STATEMENTS CONTAINED THEREIN (SUBJECT TO
CORRECTIONS, ADDITIONS, AND DELETIONS CONTAINED IN
THE ADDENDUM ANNEXED HERETO, IF ANY), AND THEY ARE
TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

LORENA ARD

SUBSCRIBED AND SWORN BEFORE ME THIS DAY BY
 , THIS DAY OF 2009.
MY COMMISSION EXPIRES:

NOTARY PUBLIC

Page 146

COMMONWEALTH OF KENTUCKY)
)

COUNTY OF JEFFERSON)

I, LISA MIGLIORE BLACK, CCR-KY, A NOTARY PUBLIC,
WITHIN AND FOR THE STATE AT LARGE, DO HEREBY CERTIFY
THAT THE FOREGOING DEPOSITION OF

LORENA ARD

WAS TAKEN BEFORE ME AT THE TIME AND PLACE AND FOR
THE PURPOSE IN THE CAPTION STATED; THAT THE WITNESS
WAS FIRST DULY SWORN TO TELL THE TRUTH, THE WHOLE
TRUTH, AND NOTHING BUT THE TRUTH; THAT THE
DEPOSITION WAS TAKEN BEFORE ME STENOGRAPHICALLY AND
AFTERWARDS TRANSCRIBED UNDER MY DIRECTION; THAT THE
FOREGOING IS A FULL, TRUE, AND CORRECT TRANSCRIPT OF
THE SAID DEPOSITION SO GIVEN; THAT THERE WAS NO
REQUEST THAT THE WITNESS READ AND SIGN THE
TRANSCRIPT; THAT THE APPEARANCES WERE AS STATED IN
THE CAPTION.

I FURTHER CERTIFY THAT I AM NEITHER OF COUNSEL
NOR OF KIN TO ANY OF THE PARTIES TO THIS ACTION, AND
AM IN NO WAY INTERESTED IN THE OUTCOME OF SAID
ACTION.

WITNESS MY SIGNATURE THIS 18TH DAY OF DECEMBER,
2009. MY COMMISSION EXPIRES NOVEMBER 10, 2013.

NOTARY PUBLIC
STATE AT LARGE, KENTUCKY

37 (Pages 145 to 146)

Rennillo Deposition & Discovery

Cleveland 216.523.1313

www.rennillo.com

888.391.3376 (Depo)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

IN RE: DIGITEK®
PRODUCT LIABILITY LITIGATION

Master Docket No.

MDL No. 1968

PLAINTIFF: Lorena Ard
(name)

AMENDED DIGITEK® PLAINTIFF FACT SHEET

Please provide the following information for each individual on whose behalf a claim is being made. Please answer every question to the best of your knowledge. In completing this Fact Sheet, you are under oath and must provide information that is true and correct to the best of your knowledge. If you cannot recall all of the details requested, please provide as much information as you can. You must supplement your responses if you learn that they are incomplete or incorrect in any material respect. If you are completing the Fact Sheet for someone who has died or who cannot complete the Fact Sheet him/herself, please answer as completely as you can for that person.

The Fact Sheet shall be completed in accordance with the requirements and guidelines set forth in the applicable Case Management Order. A completed Fact Sheet shall be considered interrogatory answers pursuant to Fed. R. Civ. P. 33 and as responses to requests for production pursuant to Fed. R. Civ. P. 34 will be governed by the standards applicable to written discovery under Fed. R. Civ. P. 26 through 37. The questions and requests for production contained in the Fact Sheet are non-objectionable and shall be answered without objection.

In filling out this form, please use the following definition: "healthcare provider" means any hospital, clinic, center, physician's office, infirmary, medical or diagnostic laboratory, or other facility that provides medical care or advice, and any pharmacy, x-ray department, radiology department, laboratory, physical therapist or physical therapy department, rehabilitation specialist, chiropractor, or other persons or entities involved in the diagnosis, care and/or treatment of you.

In addition, to the extent that the form does not provide enough space to complete your responses or answers, please attach additional sheets as necessary.

I. CASE INFORMATION

1. Please state the following for the civil action that you filed:
 - a. Case caption: Please see attached.
 - b. Civil Action Number: 3:09-CV-234
 - c. Court in which action was originally filed: Jefferson Circuit Court. Removed to United States District Court Western District of Kentucky
 - d. Your attorney:

Name: Please see attached.

Address: _____

2. Name of person completing this form: Lorena Ard with assistance and transcription by
counsel
3. Please list any other names you have used or by which you have been known and dates you used those names:

4. Your current address: _____

5. If you are completing this Fact Sheet in a representative capacity (e.g., on behalf of the estate of a deceased person or a minor), please complete the following:

a. Describe the capacity in which you are representing the individual or estate:

b. If you were appointed as a representative by a court, state the:

Court Which Appointed You: _____

Date of Appointment: _____

c. What is your relationship to the individual you represent: _____

d. If you represent a decedent's estate, state:

Decedent's Date of Death: _____

Address of Place Where Decedent Died: _____

e. If you are claiming the wrongful death of a family member, identify any and all family members, beneficiaries, heirs or next of kin of that person, including their relationship to Decedent:

THE REST OF THIS FACT SHEET REQUESTS INFORMATION ABOUT THE PERSON WHO PURCHASED, OR PURCHASED AND USED DIGITEK®, WHETHER YOU ARE COMPLETING THIS FACT SHEET FOR YOURSELF OR FOR SOMEONE ELSE, PLEASE ASSUME THAT "YOU" MEANS THE DIGITEK® PURCHASER OR PURCHASER AND USER.

II. CLAIM INFORMATION

1. Name of Digitek® Purchaser/User:

Lorena Ard

2. Have you used any other names in the last five (5) years? Yes ___ No X

If yes, please list any such names that you have used:

3. Do you claim that you suffered bodily injuries as a result of taking Digitek®?

Yes X No ___ If Yes, please answer the following:

- a. What bodily injuries do you claim resulted from your use of Digitek®?

Cardiac arrhythmias--called ventricular flutter; tachycardia; lightheadedness;

shortness of breath; chest pain; dizziness; fatigue

- b. When is the first time you saw a health care provider for any of the symptoms you link to your alleged injury? January 2008

- c. Are you currently experiencing symptoms related to your alleged injury?

Yes ___ No X If Yes, please describe the symptoms: _____

- d. Did you see a doctor, clinic or healthcare provider for the bodily injuries or illness listed above?

Yes X No ___ If Yes, who: Dr. David Johnson; Dr. Roshan Mathew

- e. Who diagnosed your injury? Dr. Mathew

- f. Date of diagnosis: Approximately 5/18/08

- g. Were you hospitalized?

Yes X No ___ If Yes, please answer the following:

- 1) Date of hospital admission: 2/25/2008
- 2) Date of discharge: Transported to another hospital the following day;
Discharged from the second hospital 2/29/08
- 3) Hospital name and address: Owensboro Medical Health System and
Jewish Hospital

h. What harm or consequence including physical limitations, do you claim you suffered as a result of the bodily injury above, excluding any mental or emotional damages, lost wages or out of pocket expenses listed below?

Plaintiff felt awful for about six months. The irregular heartbeat was frightening
to Plaintiff. Plaintiff was very fatigued. It limited her social activities. Plaintiff
had difficulty doing her job in the manner in which she was accustomed.

i. Do you claim that your injury was caused by ingesting defective Digitek® medication?

Yes X No If Yes, please answer the following:

1) Describe in detail what you claim the defect to have been in the Digitek® medication that you ingested: Pills may have been double thickness or
otherwise contained a larger dose than stated.

2) How much of the defective product did you ingest? Plaintiff took Digitek
from the end of October 2007 through the recall, daily.

3) When did you ingest the product? October 2007--early May 2008.

j. Have you had any discussions with any doctor or other healthcare provider about whether Digitek® caused you to suffer any illness or injury?

Yes X No If Yes, who: Dr. Mathew and Dr. Johnson

4. Are you claiming mental and/or emotional damages as a result of taking Digitek®?

Yes X No

If Yes, what mental and/or emotional damages do you claim resulted from your use of Digitek®?

Plaintiff has suffered a lot of fear and anxiety.

If Yes, for each provider (including but not limited to primary care physicians, psychiatrists, psychologists, and/or counselors) from whom you have sought treatment for psychological, psychiatric or emotional problems, state the following:

NAME	ADDRESS	CONDITION TREATED	DATES TREATED	MEDICATIONS PRESCRIBED

5. Are you making a claim for lost wages or lost earning capacity?

Yes ___ No X If Yes, state the annual gross income you derived from your employment for each of the last five (5) years:

6. Have you incurred any out-of-pocket expenses as a result of using Digitek®?

Yes X No ___ If Yes, please identify and itemize all out-of-pocket expenses you have incurred: Copays for the hospitalization and the doctors and medications.

7. What other damages, if any, do you claim you suffered as a result of the purchase or ingestion of Digitek®?

Plaintiff has had significant pain and suffering. She lost significant quality of life.

Plaintiff was unable to do the things she enjoyed. Plaintiff felt bad for her family. Plaintiff

has incurred costs associated with diagnosis and treatment of her injuries and the costs replacing the product, including tests and other procedures related to the new medication.

III. DIGITEK® PRESCRIPTION INFORMATION

1. Have you ever used Digitek®? Yes X No ___
2. If you answered yes to No. 1, identify the following for each period of time during which you took Digitek®:

DOSEAGE (125 MG OR 250 MG)	HOW OFTEN PER DAY OR WEEK?	DATE STARTED	DATE STOPPED	NAME OF PRESCRIBER
.250	daily	October 2007	February 2008	Roshan K. Matthew

3. Name(s) and address(es) of pharmacies where prescriptions were filled: CVS Caremark;
Buehler's Pharmacy, Rockport

4. Identify the condition for which you were prescribed Digitek®: post-open heart surgery
and bypass

5. Did you receive any free samples of Digitek®?

Yes ☐ No ☒ If Yes, please state the following:

a. Who provided the samples? _____

b. When were samples provided? _____

c. What was the dosage of the samples? _____

d. How many samples were provided? _____

6. Do you have in your possession or does your attorney have the packaging from the Digitek® you allegedly purchased, or purchased and used, and/or any Digitek® tablets?

Yes ☒ No ☐

a. If yes, who currently has custody of the Digitek® packaging and/or tablets?

Lawrence L. Jones II

b. If you or your attorney is in possession of tablets, how many do you have? 117 by counsel's

c. Have you or anyone on your behalf tested the Digitek® tablets in your possession? count

Yes ☐ No ☒ If Yes,

1) Who tested the tablets? _____

2) What test(s) was performed? _____

3) How many tablets were tested? _____

4) When were the tests performed? _____

5) What were the test results? _____

(NOTE: In lieu of answering the following Question Nos. 7a and 7b, please attach a clear copy of the product packaging and/or the label on the vial or blister pack of Digitek® in your or your attorney's possession that provides the information sought below.)

7a. Do you know the lot number(s) for any of the Digitek® you received?

Yes X No _____

If Yes, what is/are the lot number(s): See attached records

7b. Do you know the expiration date for any of the Digitek® you received?

Yes X No _____

If Yes, when is/was/were the expiration date(s): 2/15/09

8. Have you had any communication, oral or written, with any of the defendants or their representatives?

Yes _____ No X

If Yes, set forth the date of the communication, the method of communication, the name of the person with whom you communicated, and the substance of the communication between you and any defendants or their representatives:

9. Have you ever used any other digoxin or digitalis product (i.e. Lanoxin)?

Yes X No _____

If Yes, please state: Please see attached.

DOSEAGE (125 MG OR 250 MG)	HOW OFTEN PER DAY OR WEEK?	DATE STARTED	DATE STOPPED	NAME OF PRESCRIBER
Digoxin .250	daily	after surgery and before Digitek		
		possibly 02/06		

10. Are you aware that Digitek® was recalled?

Yes X No _____ If Yes, please state the following:

- When you became aware of the recall: When Plaintiff received the letter in May 2008
- How you became aware of the recall: Received the letter from Caremark

11. Did you discuss the recall with any healthcare provider or pharmacist?

Yes X No ____ If Yes, please state the following:

a. When that discussion occurred: 5/18/2008

b. With whom: Dr. Mathew. Plaintiff also spoke with Dr. Johnson after that occasion

12. Did you return any Digitek® to Stericycle or any pharmacy?

Yes ____ No X If Yes, please state the following:

a. When did you return the product? _____

b. Do you have your paperwork regarding the return? Yes ____ No ____

c. To whom did you return the product? _____

13. Have you ever visited a website, chat-room, message board or other electronic forum containing information or discussion about Digitek®?

Yes X No ____ If Yes, please provide the name of the website: the FDA website

IV. MEDICAL BACKGROUND

1. Current Height: 5'8"

2. Current Weight: 167 lbs.

3. Approximate weight at the time of your injury: approximately 160 lbs.

4.A. To the best of your knowledge, have you, or any blood-relative family member (child, parent, brother, sister, or grandparent), ever experienced or been diagnosed with any of the following conditions? Please select Yes or No for each condition. For each condition for which you answer Yes, please identify who suffered the condition, you or a relative, and please provide the relative's name and relationship to you. If you suffered the condition, please provide the additional information requested in the table following 4(B): **Objection. See attached.**

CONDITION EXPERIENCED OR DIAGNOSED	YES	NO	WHO SUFFERED CONDITION
Abnormal heart rhythm, atrial fibrillation, atrial flutter, ventricular fibrillation, or heart block			
Allergic reaction to medication (e.g., skin reaction, rash, or anaphylaxis)			
Blocked or narrow arteries/plaque buildup/coronary artery disease			
Cardiomyopathy/enlarged heart			
Chest pain/angina			
Congenital heart abnormality			
Congestive heart failure			
Heart attack/MI/myocardial infarction			

CONDITION YOU EXPERIENCED	DATE OF ONSET	MEDICATION/TREATMENT	TREATING PHYSICIAN AND/OR HOSPITAL
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
CH	[REDACTED]	[REDACTED]	[REDACTED]
H	[REDACTED]	[REDACTED]	[REDACTED]
T	[REDACTED]	[REDACTED]	[REDACTED]
R	[REDACTED]	[REDACTED]	[REDACTED]
A	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

5. Please indicate whether you have ever been the subject of any cardiovascular surgeries including, but not limited to, open heart/bypass surgery, CABG, pacemaker or defibrillator implantation, stent placement, vascular surgery, angioplasty, IVC filter placement, carotid (neck) surgery, or valve replacement.

Yes X No I don't recall If Yes, please specify the following:

SURGERY	REASON FOR SURGERY	DATE	TREATING PHYSICIAN	HOSPITAL
[REDACTED]				

6. Please indicate whether you have ever been the subject of any of the following cardiovascular diagnostic tests or interventions and provide the requested information about each, including, but not limited to, stress test; C-reactive protein (CRP); chest X-ray; angiogram/catheterization; CT scan; MRI; EKG; echocardiogram; TEE (trans-esophageal echo); endoscopy; lung bronchoscopy; carotid duplex/ultrasound; MRI/MRA of the head/neck; angiogram of the head/neck; CT scan of the head; bubble/microbubble study; and Holter monitor.

Objection. Please see attached.

Yes ☒ No ☐ I don't recall ☐ If Yes, please specify the following:

DIAGNOSTIC TEST/ INTERVENTION	REASON FOR TEST/ INTERVENTION	DATE	TREATING PHYSICIAN/ HOSPITAL	RESULT OF DIAGNOSTIC TEST/ INTERVENTION

7. Do you now or have you ever smoked tobacco products? Yes X No ____ If Yes, please specify the following:

a. How long have/did you smoke? about ten years--quit twenty-five years ago

b. How much do/did you smoke? about one pack a day

8. Did you drink alcohol (beer, wine, etc.) in the three years before your alleged injury?

Yes X No ____ If Yes, please specify the following:

a. How often did you drink? about once every two or three months

b. How much did you drink? about one drink at a time

9. Have you ever used any illicit drugs of any kind within the five (5) years before, or at any time after, your alleged injury?

Yes ____ No X If Yes, identify the substance(s) and your first and last use: _____

V. ADDITIONAL MEDICATIONS
(INCLUDING OTHER DIGOXIN PRODUCTS, SUCH AS LANOXIN®)

1. For any medications, herbal products or supplements other than Digitek® that you took on a regular basis in the ten (10) years prior to, and at the time of, the incidents described in your Complaint, please provide the information requested below:

Objection. Please see attached.

NAME OF MEDICATION USED	DOSEAGE	PRESCRIBING PHYSICIAN	DATES OF USE	PURPOSE OF PRESCRIPTION

NAME OF MEDICATION USED	DOSEAGE	PRESCRIBING PHYSICIAN	DATES OF USE	PURPOSE OF PRESCRIPTION

2. Have you ever experienced any side effects while you were taking any of the medications identified in this section in the past ten (10) years?

Yes X No If Yes, please specify the following:

- a. The name of the medication: Pacerone
- b. The side effect(s): Nausea and vomiting
- c. The date the side effect was experienced: approximately February 19, 2006

VI. PERSONAL INFORMATION

1. Current Address and Date when you began living at this address: [REDACTED]
[REDACTED]
2. Social Security Number: [REDACTED]
3. Date and Place of Birth: [REDACTED]
4. Marital Status: Married

If married, spouse's name, occupation and date of marriage: Raymond Ard; veterinarian;
[REDACTED]

If divorced, dates of the marriage, case name/jurisdiction for the divorce: _____
[REDACTED]

Has your spouse filed a loss of consortium in this action? Yes ___ No X

5. If you have children, please list each child's name and date of birth:

[REDACTED]

[REDACTED]

6. For any school attended after High School, please provide the following information:

- a. School Name: Please see attached.
- b. Address: _____
- c. Dates attended: _____
- d. Diploma/Degree: _____

7. Employment information for the last ten (10) years. Please include employer's name, address, dates of employment, job title, job description and duties:

Owensboro Medical Health System 1/1/1996--present

811 E. Parrish Ave., Owensboro, KY 42303; Advanced Practice Mental Health RN

8. Have you ever served in the military, including the military reserve or National Guard?

Yes ___ No X

If Yes, were you ever rejected or discharged from military service for any reason relating to your physical condition? Yes ___ No ___

If Yes, state the condition for which you were rejected or discharged: _____

9. Has any insurance or other company, or Medicare or Medicaid, provided medical coverage to you or paid medical bills on your behalf in the last ten (10) years?

Yes ☒ No ☐ If Yes, please specify the following:

a. The name of the company/agency: _____

b. Address: _____

c. Dates of Service: Plaintiff has had this insurance for about 12 years.

Medicare--since January 2009

10. Have you applied for workers' compensation (WC) and/or social security disability (SSI or SSD) benefits in the last ten (10) years?

Yes ☐ No ☒ If Yes, please specify the following:

a. Type of claim: _____

b. Year application filed: _____

c. Agency where application was filed: _____

d. Nature of disability: _____

e. Time period of disability: _____

11. Have you filed a lawsuit or made a claim in the last ten (10) years, other than in the present suit, relating to any bodily injury?

Yes ☐ No ☒ If Yes, please specify the following:

a. Court in which suit/claim filed or made: _____

b. Case/Claim Number: _____

c. Nature of Claim/Injury: _____

12. As an adult, have you been convicted of, or plead guilty to, a felony and/or crime of fraud or dishonesty?

Yes ☐ No ☒ If Yes, please set forth where, when and the felony and/or crime: _____

VII. HEALTHCARE PROVIDERS AND PHARMACIES

1. Identify each doctor or other healthcare provider who you have seen for medical care and treatment in the past ten (10) years: **Objection. Please see attached.**

NAME AND SPECIALTY	ADDRESS	REASON FOR VISIT	APPROX DATES/YEARS OF VISITS

2. Identify each hospital, clinic, or healthcare facility where you were hospitalized (in-patient, out-patient, or emergency room visit) in the past ten (10) years: **Objection. Please see attached.**

NAME	ADDRESS	ADMISSION DATE(S)	REASON FOR ADMISSION

3. Identify each pharmacy that has dispensed medication to you in the past ten (10) years: **Objection. Please see attached.**

NAME OF PHARMACY	ADDRESS	APPROX DATES/YEARS YOU USED PHARMACY

VIII. DECEASED INDIVIDUALS AND AUTOPSY INFORMATION

1. If you are filling this out on behalf of an individual who is deceased, please state the following from the Death Certificate of the individual:

(NOTE: In lieu of the following, please attach a copy of the death certificate.)

Date of death: _____
Place of death (city, state and county): _____
Facility or location where death occurred: _____
Name of physician who signed death certificate: _____
Cause of death: _____

If you are filling this out on behalf of an individual who is deceased and on whom an autopsy was performed, please fill in the information below pertaining to the autopsy and the autopsy report:

(NOTE: In lieu of the following, please attach a copy of the autopsy report.)

Date: _____
Performed by: _____
Facility where autopsy was performed: _____
Place where autopsy was performed (city, state, county): _____
Describe any and all tissue preserved: _____

IX. FACT WITNESSES

1. Please identify all persons who you believe possess information concerning your injury(ies) and current medical conditions, other than your healthcare providers, and please state their name address and his/her/their relationship to you:

Name: _____
Address: _____

Relationship to you: _____

Name: _____
Address: _____

Relationship to you: _____

Name: _____
Address: _____

Relationship to you: _____

Name: _____
Address: _____

Relationship to you: _____

Name: _____
Address: _____
Relationship to you: _____

IX. DOCUMENT DEMANDS

1. Authorizations: please sign authorizations that are attached hereto as Exhibit A, for each of the healthcare providers that you have identified above in your Answers to §II, Question Nos. 1-3, and § IV, Question No. 2.
2. Documents in your possession, including writings on paper or in electronic form: If you have any of the following materials in your custody or possession, please attach a copy to this Fact Sheet.
 - a. All documents constituting, concerning or relating to product use instructions, product warnings, package inserts, pharmacy handouts or other materials distributed with or provided to you in connection with your use of Digitek®.
 - b. Copies of the entire packaging, including the box and label, for Digitek® and any Digitek® tablets (plaintiffs or their counsel must maintain the originals of the items requested in this subpart).
 - c. All documents relating to your purchase of Digitek®, including, but not limited to, receipts, prescriptions or records of purchase.
 - d. All photographs, drawing, journals, slides, videos, DVDs or any other media relating to your alleged injury.
 - e. Copies of letters testamentary or letters of administration relating to your status as plaintiff (if applicable).
 - f. Decedent's death certificate and autopsy report (if applicable).
 - g. Medical records, bills, correspondence, reports and all other documents from any health care provider who saw, evaluated or treated Plaintiff/Decedent in the last five (5) years.
 - h. All emergency responder, paramedic or EMT reports regarding Plaintiff/Decedent.
 - i. Documents concerning any communication between Plaintiff/Decedent or Plaintiff/Decedent's attorneys or agents and the FDA or any Defendant regarding the events giving rise to the lawsuit or relating to Digitek.
 - j. Non-privileged documents, including any diaries, calendars or notes that record Plaintiff/Decedent's health, use of Digitek or alleged injuries

X. VERIFICATION

I declare under penalty of perjury that all of the information provided in this Plaintiff Fact Sheet is true and correct to the best of my knowledge. I have supplied all the documents requested in Part ____ of this declaration, to the extent that such documents are in my possession, custody, or control, or in the possession, custody, or control of my lawyers, and supplied the authorizations attached to this declaration.

Further, I acknowledge that I have an obligation to supplement the above responses if I learn that they are in any material respects incomplete or incorrect.

Date: 7/1/09


Signature

ATTACHMENT TO AMENDED DIGITEK® PLAINTIFF FACT SHEET

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

I. CASE INFORMATION

1. Please state the following for the civil action that you filed:

a. Case caption:

On behalf of themselves and all others similarly situated within the Commonwealth of Kentucky; CARLA YORK and HAROLD RICHARDSON, Co-Executors of THE ESTATE OF EARL LONEY; JUDY A. WHITAKER, as the Executrix of THE ESTATE OF ANNA FIGHT; IRMA WRIGHT; VETA COON; LORENA ARD; and MARY BOND v. ACTAVIS TOTOWA, LLC; MYLAN PHARMACEUTICALS, INC.; and UDL LABORATORIES, INC.

1. d. Your attorney:

Name: Lawrence L. Jones II

Address: Bahe Cook Cantley & Jones PLC, Kentucky Home Life Building,
239 South Fifth Street, Suite 700, Louisville, KY 40202

AND

Name: Christopher L. Rhoads

Address: Rhoads and Rhoads, P.S.C.

115 East Second St., Suite 100, P.O. Box 2023, Owensboro, KY 42302

III. DIGITEK® PRESCRIPTION INFORMATION

9. Have you ever used any other digoxin or digitalis product (i.e. Lanoxin)?

Yes X No

This information is based on Ms. Ard's own recollection. She has attached a medical release. Defendant may obtain and review her records for more information.

IV. MEDICAL BACKGROUND

- 4.A. To the best of your knowledge, have you, or any blood-relative family member (child, parent, brother, sister, or grandparent) ever experienced or been diagnosed with any of

**Terra Haute, IN
M.P.A. 1987**

**Indiana University
Indianapolis, IN
M.S. Nursing 1997**

VII. HEALTHCARE PROVIDERS AND PHARMACIES

1. Identify each doctor or other healthcare provider who you have seen for medical care and treatment in the past ten (10) years:

Objection. Plaintiff objects on the grounds that this question is overly broad and unduly burdensome. Subject to and without waiving the objection, Plaintiff provides the following information, gathered from her own memory. Plaintiff may not have knowledge or recollection all of the providers, nor have specific information regarding them. More information may be available in the attached records. Furthermore, Plaintiff has executed and attached the medical release. Defendant is free to obtain and review Ms. Ard's medical records for further information regarding her healthcare providers.

NAME AND SPECIALTY	ADDRESS	REASON FOR VISIT	APPROX DATES/YEARS OF VISITS
David Johnson, MD	Bluegrass Internal Medicine 1000 Breckinridge St., Suite 401 Owensboro, KY 42303		2006-present
Roshon Mathew Cardiologist	Green River Heart Institute 815 E. Parrish Ave Owensboro, KY 42303		2006-present
John Hast Gastroenterologist	Hwy 54 Springs		2006—present
William O'Bryan	1000 Breckinridge St., Ste. 300 Owensboro, KY		8 years (yearly)
Dr. Milsap Ophthalmologist	New Hartford Rd. Owensboro, KY		Yearly

2. Identify each hospital, clinic, or healthcare facility where you were hospitalized (in-patient, out-patient, or emergency room visit) in the past ten (10) years:

Objection. Plaintiff objects on the grounds that this question is overly broad and unduly burdensome. Subject to and without waiving the objection, Plaintiff provides the following information, gathered from her own memory and the medical records. Plaintiff may not have specific recollection of each hospitalization, nor have specific information regarding them. The following information, therefore, is completed to the best of her knowledge and recollection. Plaintiff has executed and attached the medical release. Defendant is free to obtain and review medical records for further information regarding Ms. Ard's healthcare providers.

NAME	ADDRESS	ADMISSION DATE	REASON FOR ADMISSION
Jewish Hospital	200 Abraham Flexner Way Louisville, KY 40202	[REDACTED]	
Owensboro Medical Health System (OMHS)		[REDACTED]	[REDACTED]
		[REDACTED]	[REDACTED]
		[REDACTED]	[REDACTED]
		[REDACTED]	[REDACTED]

3. Identify each pharmacy that has dispensed medication to you in the past ten (10) years:

Objection. This question is overly broad and unduly burdensome. Subject to and without waiving the objection, Plaintiff provides the following information based on her own recollection. Additionally, Plaintiff also executed and attached a medical release. Defendant is free to obtain and review Ms. Ard's records for further information.

NAME OF PHARMACY	ADDRESS	APPROXIMATE DATES/YEARS YOU USED PHARMACY
CVS Caremark Prescription Services		
Buehlers Pharmacy		